

SEVENTY-SEVENTH DAY

SATURDAY, MAY 17, 1997

PROCEEDINGS

The Senate met at 9:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Duncan.

The President announced that a quorum of the Senate was present.

The Reverend John Pitts, Senate Chaplain, offered the invocation as follows:

Lord, we are here to do the work You have given us to do—to do this work because You placed a call in each of the hearts of these men and women to serve the people of Texas. As they respond to that call this day, I ask that You lead them, guide them, and direct them to do this work.

As we look to deadlines and mounds of work to be done in a short time, we ask that You give us patience. Give us patience to know that the work that must be done will be done when it is to be done. Give us patience with one another to see the other—really see the other—as a fellow traveler—a fellow struggler—on the road of the 75th Legislature.

Bless us in our work this day. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

On motion of Senator Fraser, Senator Duncan was granted leave of absence for today on account of important business.

CO-AUTHOR OF SENATE BILL 1814

On motion of Senator Duncan and by unanimous consent, Senator Fraser will be shown as Co-author of **SB 1814**.

SENATE BILL AND RESOLUTION ON FIRST READING

The following bill and resolution were introduced, read first time, and referred to the committees indicated:

SB 1958 by Luna

Relating to the creation of three county courts at law in Bexar County.
To Committee on Jurisprudence.

SCR 95 by Bivins

Authorizing the creation of the Texas Education Telecommunications Coordinating Committee.
To Committee on Education.

HOUSE RESOLUTIONS ON FIRST READING

The following resolutions received from the House were read first time and referred to the committees indicated:

HCR 132 to Committee on Criminal Justice.

HCR 230 to Committee on Administration.

HCR 232 to Committee on Administration.

HCR 235 to Committee on Administration.

HCR 236 to Committee on Administration.

HCR 240 to Committee on Administration.

HCR 241 to Committee on Administration.

HCR 242 to Committee on Administration.

HCR 256 to Committee on Administration.

HCR 265 to Committee on Administration.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 29**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas
May 16, 1997

Honorable Bob Bullock
President of the Senate

Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 29** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ZAFFIRINI

HARRIS

NELSON

MADLA

MONCRIEF

On the part of the Senate

GOODMAN

NAISHTAT

A. REYNA

STAPLES

VAN DE PUTTE

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the implementation of the child support enforcement provisions of Title III of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 101.011, Family Code, is amended to read as follows:

Sec. 101.011. EARNINGS. "Earnings" means a payment to or due an individual, regardless of source and how [compensation paid or payable for personal services, whether] denominated. The term includes a periodic or lump-sum payment for:

(1) ~~[as]~~ wages, salary, compensation received as an independent contractor, overtime pay, severance pay, commission, bonus, and interest income;

(2) ~~[or otherwise. The term includes periodic]~~ payments made under [pursuant to] a pension, an annuity, workers' compensation, and a disability or [and] retirement program;[;] and

(3) unemployment benefits.

SECTION 2. Section 101.012, Family Code, is amended to read as follows:

Sec. 101.012. EMPLOYER. "Employer" means a person, corporation, partnership, workers' compensation insurance carrier, governmental entity, ~~[and] the United States, or any other entity that pays or owes earnings to an individual. The term [and] includes, for the purposes of enrolling dependents in a group health insurance plan, a union, trade association, or other similar organization.~~

SECTION 3. Section 101.020, Family Code, is amended to read as follows:

Sec. 101.020. MEDICAL SUPPORT. "Medical support" means periodic payments or a lump-sum payment made under an [a court] order to cover medical expenses, including health insurance coverage, incurred for the benefit of a child.

SECTION 4. Section 101.034, Family Code, is amended to read as follows:

Sec. 101.034. TITLE IV-D CASE. "Title IV-D case" means an action in which services are provided by the Title IV-D agency [to establish or enforce support obligations filed] under Part D, Title IV, of the federal Social Security Act (42 U.S.C. Section 651 et seq.), relating to the location of an absent parent, determination of parentage, or establishment, modification, or enforcement of a child support or medical support obligation.

SECTION 5. Chapter 101, Family Code, is amended by adding Sections 101.0011, 101.0161, 101.0201, and 101.0301 to read as follows:

Sec. 101.0011. ADMINISTRATIVE WRIT OF WITHHOLDING. "Administrative writ of withholding" means the document issued by the Title IV-D agency and delivered to an employer directing that earnings be withheld for payment of child support as provided by Chapter 158.

Sec. 101.0161. JUDICIAL WRIT OF WITHHOLDING. "Judicial writ of withholding" means the document issued by the clerk of a court and delivered to an employer directing that earnings be withheld for payment of child support as provided by Chapter 158.

Sec. 101.0201. NOTICE OF APPLICATION FOR JUDICIAL WRIT OF WITHHOLDING. "Notice of application for judicial writ of withholding" means the document delivered to an obligor and filed with the court as required by Chapter 158 for the nonjudicial determination of arrears and initiation of withholding.

Sec. 101.0301. STATE CASE REGISTRY. "State case registry" means the registry established and operated by the Title IV-D agency under 42 U.S.C. Section 654a that has responsibility for maintaining records with respect to child support orders in all Title IV-D cases and in all other cases in which a support order is rendered or modified under this title on or after October 1, 1998.

SECTION 6. Section 105.006, Family Code, is amended by amending Subsections (b), (c), (e), and (g) and adding Subsection (f) to read as follows:

(b) Except as provided by Subsection (c), the court shall order each party to inform each other party, the court that rendered the order, and the state case registry under Chapter 234 of an intended change in any of the information required by this section as long as any person, as a result of the order, is under an obligation to pay child support or is entitled to possession of or access to a child. The court shall order that notice of the intended change be given at the earlier of:

(1) the 60th day before the date the party intends to make the change; or

(2) the fifth day after the date that the party knew of the change, if the party did not know or could not have known of the change in sufficient time to comply with Subdivision (1).

(c) If a court finds after notice and hearing that requiring a party to provide the information required by this section to another party is likely to cause the child or a conservator harassment, abuse, serious harm, or injury, the court may:

(1) order the information not to be disclosed to another party; or

(2) render any other order the court considers necessary.

(e) Except as provided by Subsection (c), an order in a suit that orders child support or possession of or access to a child must also contain the following notice [order] in bold-faced type or in capital letters:

"EACH PERSON WHO IS A PARTY TO THIS ORDER IS ORDERED TO NOTIFY EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY [WITHIN 10 DAYS AFTER THE DATE] OF ANY CHANGE IN THE PARTY'S CURRENT RESIDENCE ADDRESS, MAILING ADDRESS, HOME TELEPHONE NUMBER, NAME OF EMPLOYER, ADDRESS OF EMPLOYMENT, DRIVER'S LICENSE NUMBER, AND WORK TELEPHONE NUMBER. THE PARTY IS ORDERED TO GIVE NOTICE OF AN INTENDED CHANGE IN ANY OF THE REQUIRED INFORMATION TO EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY ON OR BEFORE

THE 60TH DAY BEFORE THE INTENDED CHANGE. IF THE PARTY DOES NOT KNOW OR COULD NOT HAVE KNOWN OF THE CHANGE IN SUFFICIENT TIME TO PROVIDE 60-DAY NOTICE, THE PARTY IS ORDERED TO GIVE NOTICE OF THE CHANGE ON OR BEFORE THE FIFTH DAY AFTER THE DATE THAT THE PARTY KNOWS OF THE CHANGE.

"THE DUTY TO FURNISH THIS INFORMATION TO EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY CONTINUES AS LONG AS ANY PERSON, BY VIRTUE OF THIS ORDER, IS UNDER AN OBLIGATION TO PAY CHILD SUPPORT OR ENTITLED TO POSSESSION OF OR ACCESS TO A CHILD.

"FAILURE BY A PARTY TO OBEY THE ORDER OF THIS COURT TO PROVIDE EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY WITH THE CHANGE IN THE REQUIRED INFORMATION MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL FOR UP TO SIX MONTHS, A FINE OF UP TO \$500 FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS."

(f) Except for an action in which contempt is sought, in any subsequent child support enforcement action, the court may, on a showing that diligent effort has been made to determine the location of a party, consider due process requirements for notice and service of process to be met with respect to that party on delivery of written notice to the most recent residential or employer address filed by that party with the court and the state case registry.

(g) The Title IV-D agency shall promulgate and provide forms for a party to use in reporting to the court and, when established, to the state case registry under Chapter 234 the information required under this section [Notwithstanding another provision of this section, a court in a county with a population of 2.8 million or more shall order each party to inform the clerk of the court of a change in information required by this section in the manner provided by Subsection (b). The order required by Subsection (c) shall reflect the notification requirement of this subsection].

SECTION 7. Chapter 105, Family Code, is amended by adding Section 105.008 to read as follows:

Sec. 105.008. RECORD OF SUPPORT ORDER FOR STATE CASE REGISTRY. (a) The clerk of the court shall provide the state case registry with a record of a court order for child support as required by procedures adopted under Section 234.003. The record of an order shall include information provided by the parties on a form developed by the Title IV-D agency. The form shall be completed by the petitioner and submitted to the clerk at the time the order is filed for record.

(b) To the extent federal funds are available, the Title IV-D agency shall reimburse the clerk of the court for the costs incurred in providing the record of support order required under this section.

SECTION 8. Subsection (a), Section 110.002, Family Code, is amended to read as follows:

(a) The clerk of the court may collect a filing fee of \$15 in a suit for filing:

- (1) a suit for modification;
- (2) a motion for enforcement;
- (3) a notice of application for judicial writ of withholding [delinquency]; or
- (4) a motion to transfer.

SECTION 9. Section 110.004, Family Code, is amended to read as follows:

Sec. 110.004. FEE FOR ISSUING AND DELIVERING WITHHOLDING ORDER OR WRIT. The clerk of the court may charge a reasonable fee, not to exceed \$15, for each order or writ of income withholding issued by the clerk and delivered to an employer ~~[by mail]~~.

SECTION 10. Subsection (a), Section 154.007, Family Code, is amended to read as follows:

(a) ~~In [Except for good cause shown, or on agreement of the parties, in]~~ a proceeding in which periodic payments of child support are ordered, ~~modified, or enforced~~, the court ~~or Title IV-D agency~~ shall order that income be withheld from the disposable earnings of the obligor as provided by Chapter 158.

SECTION 11. Subsection (b), Section 154.184, Family Code, is amended to read as follows:

(b) ~~If the employee or member is eligible for dependent health coverage, the employer [The child] shall [be] automatically enroll the child [enrolled]~~ for the first 31 days after the receipt of the order or notice of the medical support order under Section 154.186 [by the employer] on the same terms and conditions as apply to any other dependent child.

SECTION 12. Section 154.186, Family Code, is amended to read as follows:

Sec. 154.186. NOTICE TO EMPLOYER CONCERNING MEDICAL SUPPORT. The obligee, obligor, or a child support agency may send to the employer a copy of the order requiring an employee to provide health insurance coverage for a child or may include notice of the medical support order in an order or writ of withholding sent to the employer in accordance with Chapter 158.

SECTION 13. Subsections (a), (c), and (d), Section 154.187, Family Code, are amended to read as follows:

(a) An order or notice under this subchapter to an employer directing that health insurance coverage be provided to a child of an employee or member is binding on a current or subsequent [the] employer on receipt without regard to the date the order was rendered. If the employee or member is eligible for dependent health coverage for the child, the employer shall immediately enroll the child in a health insurance plan regardless of whether the employee is enrolled in the plan. If dependent coverage is not available to the employee or member through the employer's health insurance plan or enrollment cannot be made permanent or if the employer is not responsible or otherwise liable for providing such coverage, the employer shall provide notice to the sender in accordance with Subsection (c).

(c) An employer who has received an order or notice under this subchapter shall provide to the sender, by first class mail not later than the 30th day after the date the employer receives the order or notice, a statement that the child:

(1) has been enrolled in a health insurance plan; or

(2) cannot be enrolled or cannot be enrolled permanently in a health insurance plan and provide the reason why coverage or permanent coverage cannot be provided.

(d) If the employee ceases employment or if the health insurance coverage lapses, the employer shall provide to the sender, by first class mail not later than the 15th day after the date of the termination of employment or the lapse of the coverage, notice of the termination or lapse and of the availability of any conversion privileges~~[, if any]~~.

SECTION 14. Section 154.189, Family Code, is amended to read as follows:

Sec. 154.189. NOTICE OF TERMINATION OR LAPSE OF INSURANCE COVERAGE. (a) An obligor ordered to provide health insurance coverage for a child must notify the obligee and any child support agency enforcing a support obligation against the obligor of the:

(1) termination or lapse of health insurance coverage for the child not later than the 15th day after the date of a termination or lapse; and

(2) availability of additional health insurance to the obligor for the child after a termination or lapse of coverage not later than the 15th day after the date the insurance becomes available.

(b) If termination of coverage results from a change of employers, the obligor, the obligee, or the child support agency may send the new employer a copy of the order requiring the employee to provide health insurance for a child or notice of the medical support order as provided by this subchapter.

SECTION 15. Subchapter D, Chapter 154, Family Code, is amended by adding Section 154.193 to read as follows:

Sec. 154.193. MEDICAL SUPPORT ORDER NOT QUALIFIED. (a) If a plan administrator or other person acting in an equivalent position determines that a medical support order issued under this subchapter does not qualify for enforcement under federal law, the tribunal may, on its own motion or the motion of a party, render an order that qualifies for enforcement under federal law.

(b) The procedure for filing a motion for enforcement of a final order applies to a motion under this section. Service of citation is not required, and a person is not entitled to a jury in a proceeding under this section.

(c) The employer or plan administrator is not a necessary party to a proceeding under this section.

SECTION 16. Subsection (a), Section 156.401, Family Code, is amended to read as follows:

(a) Except as provided by Subsection (b), the court may modify an order that provides for the support of a child if:

(1) the circumstances of the child or a person affected by the order have materially and substantially changed since the date of the order's rendition; or

(2) it has been three years since the order was rendered or last modified and the monthly amount of the child support award under the order differs by either 20 percent or \$100 from the amount that would be awarded in accordance with the child support guidelines.

SECTION 17. Subsection (b), Section 157.002, Family Code, is amended to read as follows:

(b) A motion for enforcement of child support:

(1) must include the amount owed as provided in the order, the amount paid, and the amount of arrearages;

(2) if contempt is requested, must include the portion of the order allegedly violated and, for each date of alleged contempt, the amount due and the amount paid, if any; ~~and~~

(3) may include as an attachment a copy of a record of child support payments maintained by the Title IV-D registry or a local registry; ~~and~~

(4) if the obligor owes arrearages for a child receiving assistance under Part A of Title IV of the federal Social Security Act (42 U.S.C. Section 601 et seq.), may include a request that:

(A) the obligor pay the arrearages in accordance with a plan approved by the court; or

(B) if the obligor is already subject to a plan and is not incapacitated, the obligor participate in work activities, as defined under 42 U.S.C. Section 607(d), that the court determines appropriate.

SECTION 18. Subsection (a), Section 157.065, Family Code, is amended to read as follows:

(a) If a party has been ordered under Chapter 105 to provide the ~~clerk of the~~ court ~~and the state case registry~~ with the party's current mailing address, notice of a motion for enforcement may be served by mailing a copy of the notice to the respondent, together with a copy of the motion, by first class mail to the last mailing address of the respondent on file with the ~~court and the registry~~ ~~clerk~~.

SECTION 19. Section 157.311, Family Code, is amended to read as follows:

Sec. 157.311. DEFINITIONS. In this subchapter:

(1) "Claimant" means:

(A) the obligee or a private attorney representing the obligee;

(B) the Title IV-D agency providing child support services;

(C) a domestic relations office or local registry; or

(D) an attorney appointed as a friend of the court.

(2) "Court having continuing jurisdiction" is the court of continuing, exclusive jurisdiction in this state or a tribunal of another state having jurisdiction under the Uniform Interstate Family Support Act or a substantially similar act.

(3) "Lien" means a child support lien.

SECTION 20. Section 157.312, Family Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) A child support lien arises:

(1) by operation of law against real and personal property of an obligor for all amounts of overdue support, regardless of whether the amounts

have been adjudicated or otherwise determined, subject to the requirements of this subchapter for recording and notice; or

(2) when a court having continuing jurisdiction or, in a Title IV-D case, the Title IV-D agency determines an amount of arrears owed by a child support obligor.

(e) A child support lien arising in another state may be enforced in the same manner and to the same extent as a lien arising in this state.

(f) A foreclosure action under this subchapter is not required as a prerequisite to levy and execution on a judgment or an administrative determination of arrears rendered after notice and opportunity for hearing.

SECTION 21. Section 157.313, Family Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) A child support lien notice must contain:

(1) the style, docket number, and identity of the tribunal of this or another state [court] having continuing jurisdiction of the child support action;

(2) the name, address, and, if available, the birth date, driver's license number, and social security number of the obligor;

(3) the name and social security number, if available, of the obligee and the child;

(4) the amount of child support arrearages owed by the obligor and the date of the signing [rendition] of the court order, administrative order, or [issuance of the] writ that determined the arrearages or the date and manner in which the arrearages were determined;

(5) the rate of interest specified in the court order, administrative order, or writ or, in the absence of a specified interest rate, the rate provided for by law [Subchapter F]; [and]

(6) the name and address of the person or agency asserting the lien; and

(7) the motor vehicle identification number as shown on the obligor's title if the property is a motor vehicle [to whom the payment of the child support arrearages shall be made].

(d) A claimant must file a notice for each after-acquired motor vehicle.

SECTION 22. Section 157.314, Family Code, is amended to read as follows:

Sec. 157.314. FILING LIEN NOTICE OR ABSTRACT OF JUDGMENT.

(a) A child support lien notice or an abstract of judgment for past due child support may be filed by the claimant with the county clerk of:

(1) ~~[the county clerk of]~~ any county in which the obligor is believed to own nonexempt real or personal property;

(2) ~~[or in]~~ the county in which the obligor resides; or

(3) the county in which the court having continuing jurisdiction has venue of the suit affecting the parent-child relationship.

(b) A child support lien notice may be filed with:

(1) ~~[(2)]~~ the clerk of the court in which a claim, counterclaim, or suit by, or on behalf of, the obligor, including a claim or potential right to proceeds from an estate as an heir, beneficiary, or creditor, is pending, provided that a copy of the lien is mailed to the attorney of record for the obligor, if any; ~~[or]~~

(2) ~~[(3)]~~ an attorney who represents the obligor in a claim or counterclaim that has not been filed with a court;

(3) any other individual or organization believed to be in possession of real or personal property of the obligor; or

(4) any governmental unit or agency that issues or records certificates, titles, or other indicia of property ownership.

SECTION 23. Section 157.316, Family Code, is amended to read as follows:

Sec. 157.316. PERFECTION OF CHILD SUPPORT LIEN. (a) Except as provided by Subsection (b), a [A] child support lien is perfected [attaches] when an abstract of judgment for past due child support or a child support lien notice is filed with the county clerk as provided by this subchapter.

(b) If a lien established under this subchapter attaches to a motor vehicle, the lien must be perfected in the manner provided by Chapter 501, Transportation Code, and the court or Title IV-D agency that rendered the order of child support shall include in the order a requirement that the obligor surrender to the court or Title IV-D agency evidence of the legal ownership of the motor vehicle against which the lien may attach. A lien against a motor vehicle under this subchapter is not perfected until the obligor's title to the lien has been surrendered to the court or Title IV-D agency and the Texas Department of Transportation has issued a subsequent title that discloses on its face the fact that the vehicle is subject to a child support lien under this subchapter.

SECTION 24. Subsection (a), Section 157.317, Family Code, is amended to read as follows:

(a) A lien attaches to all real and personal property not exempt under the Texas Constitution, including a claim for negligence, personal injury, or workers' compensation, or an insurance award for the claim, owned by the obligor on or after the date the lien notice or abstract of judgment is filed with the county clerk of the county in which the property is located, with the court clerk as to property or claims in litigation, or, as to property of the obligor in the possession or control of a third party, from the date the lien notice is filed with that party [attaches].

SECTION 25. Section 157.318, Family Code, is amended to read as follows:

Sec. 157.318. DURATION AND EFFECT OF CHILD SUPPORT LIEN. (a) A lien is effective until all current support and child support arrearages, including interest, have been paid or the lien is otherwise released as provided by this subchapter [for 10 years from the date the notice is recorded in the county clerk's office in the county where the property of the obligor is located].

(b) The lien secures payment of all child support arrears owed by the obligor under the underlying support order, including arrearages that accrue after the administrative or judicial determination of arrearages stated in the lien notice [may be extended for an additional 10-year period by recording a lien notice before the tenth anniversary of the date of the original recording of the notice].

(c) The filing of a lien notice or abstract of judgment with the county clerk is a record of the notice and has the same effect as any other lien notice with respect to real property records.

SECTION 26. Section 157.319, Family Code, is amended to read as follows:

Sec. 157.319. EFFECT OF LIEN NOTICE ~~[ON PERSONAL PROPERTY]~~. (a) ~~[The filing of a lien notice is a record of the notice.~~

~~[(b)] If [a lien has been filed as provided in this subchapter and]~~ a person having actual notice of the lien possesses nonexempt personal property of the obligor that may be subject to the lien, the property may not be paid over, released, sold, transferred, encumbered, or conveyed unless:

(1) a release of lien signed by the claimant is delivered to the person in possession; or

(2) a court, after notice to the claimant and hearing, has ordered the release of the lien because arrearages do not exist.

(b) A person having notice of a child support lien who violates this section may be joined as a party to a foreclosure action under this chapter and is subject to the penalties provided by this subchapter.

SECTION 27. Section 157.320, Family Code, is amended by adding Subsection (d) to read as follows:

(d) A lien created under this subchapter is subordinate to a vendor's lien retained in a conveyance to the obligor.

SECTION 28. Section 157.321, Family Code, is amended to read as follows:

Sec. 157.321. DISCRETIONARY RELEASE OF LIEN. A claimant may at any time release a lien on all or part of the property of the obligor or return seized property, without liability, if assurance of payment is considered adequate by the claimant or if the release or return will facilitate the collection of the arrearages. The release or return may not operate to prevent future action to collect from the same or other property owned by the obligor.

SECTION 29. Subsections (a) and (b), Section 157.322, Family Code, are amended to read as follows:

(a) On payment in full of the amount of child support due, together with any costs and reasonable attorney's fees, the claimant shall execute and deliver to the obligor or the obligor's attorney a release of the child support lien.

(b) The release of lien is effective when filed with the county clerk with whom the lien notice or abstract of judgment was filed. A copy of the release of lien may be filed with any other individual or organization that may have been served with a lien notice under this subchapter [A child support lien release shall be filed in the same manner as the notice of lien].

SECTION 30. Section 157.323, Family Code, is amended to read as follows:

Sec. 157.323. FORECLOSURE OR SUIT TO DETERMINE ARREARAGES. (a) In addition to any other remedy provided by law [When a lien notice has been filed under this subchapter], an action to foreclose a child support lien or to dispute the amount of arrearages stated in the lien [on nonexempt real or personal property] may be brought in the court of

continuing jurisdiction or, if there is no court of continuing jurisdiction in this state, in the district court of the county in which the property is or was located and the lien was filed.

(b) The procedures provided by Subchapter B apply to a foreclosure action under this section, except that a person or organization in possession of the property of the obligor may be joined as an additional respondent.

(c) If [After notice to the obligor and the claimant, the court shall conduct a hearing and, if] arrearages are owed by the obligor, the court shall:

(1) render judgment against the obligor for the amount due, plus costs and reasonable attorney's fees; [and]

(2) order any official authorized to levy execution to satisfy the lien, costs, and attorney's fees by selling any property on which a lien is established under this subchapter; or

(3) order an individual or organization in possession of nonexempt personal property or cash owned by the obligor to dispose of the property as the court may direct.

(d) For execution and sale [(c) In all sales contemplated] under this section, publication of notice is necessary only for three consecutive weeks in a newspaper published in the county where the property is located or, if there is no newspaper in that county, in the most convenient newspaper in circulation in the county.

SECTION 31. Section 157.324, Family Code, is amended to read as follows:

Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR LIEN. A person who knowingly disposes of property subject to a lien or who, after a foreclosure hearing, fails to surrender on demand nonexempt personal property as directed by a court or administrative order [seized] under this subchapter is liable to the claimant in an amount equal to the arrearages for which the foreclosure judgment was issued.

SECTION 32. Subsection (b), Section 157.325, Family Code, is amended to read as follows:

(b) If the claimant refuses the request, the holder of the personal property or the obligor may file suit under this subchapter for an order determining the amount of arrearages and discharging [petition the court of competent jurisdiction for discharge of] excess personal property or money from the lien.

SECTION 33. Section 157.326, Family Code, is amended to read as follows:

Sec. 157.326. INTEREST OF OBLIGOR'S SPOUSE. (a) A spouse of an obligor may file an affidavit with the [a] court of continuing [competent] jurisdiction or, if there is no court of continuing jurisdiction in this state, in the district court of the county in which the property is or was located and the lien was filed requesting that the court determine the extent, if any, of the spouse's interest in real or personal property that is subject to:

(1) a lien perfected under this subchapter; or

(2) an action to foreclose under this subchapter.

(b) After notice to the obligor, obligor's spouse, [and] the claimant, and the obligee, the court shall conduct a hearing and determine the extent, if any,

of the ownership interest in the property held by the obligor's spouse. If the court finds that:

(1) the property is the separate property of the obligor's spouse, the court shall order that the lien against the property be released and that any action to foreclose on the property be dismissed; or

(2) the property is jointly owned by the obligor and the obligor's spouse, the court shall determine whether the sale of the obligor's interest in the property would result in an unreasonable hardship on the obligor's spouse or family and:

(A) if so, the court shall render an order that the obligor's interest in the property not be sold and that the lien against the property should be released; or

(B) if not, the court shall render an order partitioning the property and directing that the property be sold and the proceeds applied to the child support arrearages ~~[consistent with the provisions of this subchapter]~~.

(c) In a proceeding under this section, ~~[subsection in which]~~ the spouse claiming ~~[of the obligor claims by affidavit]~~ an ownership interest in the property ~~[the claimant]~~ has the burden to prove the extent of that ~~[the obligor's]~~ ownership interest.

SECTION 34. Section 158.001, Family Code, is amended to read as follows:

Sec. 158.001. INCOME WITHHOLDING; GENERAL RULE ~~[IN ORIGINAL SUIT]~~. In ~~[Except for good cause shown or on agreement of the parties, in]~~ a proceeding in which periodic payments of child support are ordered, ~~[or]~~ modified, or enforced, the court or the Title IV-D agency shall order that income be withheld from the disposable earnings of the obligor as provided by this chapter.

SECTION 35. Section 158.002, Family Code, is amended to read as follows:

Sec. 158.002. SUSPENSION OF INCOME WITHHOLDING ~~[IN SUBSEQUENT ACTION]~~. Except in a Title IV-D case, the ~~[The]~~ court may provide, for good cause shown or on agreement of the parties, that the ~~[shall]~~ order withholding income need not be issued or delivered to an employer until ~~[withholding in a motion for enforcement if the court finds that at the time of filing of the motion]~~:

(1) the obligor has been in arrears for an amount due for more than 30 days; ~~[and]~~

(2) the amount of the arrearages is an amount equal to or greater than the amount due for a one-month period; or

(3) any other violation of the child support order has occurred.

SECTION 36. Section 158.006, Family Code, is amended to read as follows:

Sec. 158.006. INCOME WITHHOLDING IN TITLE IV-D SUITS. In a Title IV-D case, the court or the Title IV-D agency shall order that income be withheld from the disposable earnings of the obligor and may not suspend, stay, or delay issuance of the order or of a judicial or administrative writ of withholding ~~[and that all child support payments be paid through a local registry or directly to the Title IV-D agency]~~.

SECTION 37. Section 158.009, Family Code, is amended to read as follows:

Sec. 158.009. MAXIMUM AMOUNT WITHHELD FROM EARNINGS. An order or writ of withholding shall direct that any employer of the obligor withhold from the obligor's disposable earnings the amount specified ~~[in the order]~~ up to a maximum amount of 50 percent of the obligor's disposable earnings.

SECTION 38. Section 158.010, Family Code, is amended to read as follows:

Sec. 158.010. ORDER OR WRIT BINDING ON EMPLOYER DOING BUSINESS IN STATE. An order or writ of withholding issued under this chapter and delivered to an employer doing business in this state is binding on the employer without regard to whether the obligor resides or works outside this state.

SECTION 39. Subsection (a), Section 158.011, Family Code, is amended to read as follows:

(a) An obligor may file with the clerk of the court a notarized ~~or acknowledged~~ request signed by the obligor and the obligee for the issuance and delivery to the obligor's employer of a writ of withholding. A notarized or acknowledged request may be filed under this section regardless of whether a ~~writ or order~~ [notice of delinquency] has been served on any party or of the existence or amount of an arrearage.

SECTION 40. Section 158.102, Family Code, is amended to read as follows:

Sec. 158.102. TIME LIMITATIONS. The court retains jurisdiction to render an order that provides for income to be withheld from the disposable earnings of the obligor until all current support and child support arrearages, including interest, have been paid ~~[if the motion for income withholding is filed not later than the fourth anniversary of the date:~~

~~[(1) the child becomes an adult;~~

~~[(2) the child support obligation terminates as provided in the order or by operation of law; or~~

~~[(3) an order of withholding was rendered or a writ of withholding was issued and arrearages have not been fully discharged].~~

SECTION 41. Section 158.103, Family Code, is amended to read as follows:

Sec. 158.103. CONTENTS OF ORDER OF WITHHOLDING. An order of withholding shall state:

(1) the style, cause number, and court having continuing jurisdiction of the suit;

(2) the name, address, and, if available, the social security number of the obligor;

(3) the amount and duration of the child support payments and medical support payments or other provisions for medical support;

(4) the name, address, and, if available, the social security numbers of the child and the obligee;

(5) the name and address of the person or agency to whom the payments shall be made;

(6) that the obligor is required to notify the court promptly of any change affecting the order; and

(7) that the ordered amount shall be paid to a local registry or the Title IV-D agency.

SECTION 42. Subsection (a), Section 158.106, Family Code, is amended to read as follows:

(a) The Title IV-D agency shall prescribe forms ~~[a form]~~ for:

(1) an ~~[the]~~ order of withholding that is sufficient if rendered ~~[by a court]~~ in substantially the prescribed manner;

(2) a notice of application for judicial writ of withholding; ~~[and]~~

(3) a judicial writ of withholding as ~~[that is sufficient when issued by the clerk of the court substantially in the manner]~~ provided by Subchapter D; and

(4) an administrative writ of withholding, including forms and procedures for electronic issuance of the writ, as provided by Subchapter F ~~[E]~~.

SECTION 43. Section 158.201, Family Code, is amended to read as follows:

Sec. 158.201. ORDER OR WRIT BINDING ON ~~[NOTICE TO]~~ EMPLOYER. (a) An employer required ~~[who may be directed]~~ to withhold income from earnings is not entitled to ~~[as provided by this chapter need not be given]~~ notice of the proceedings before the order is rendered or writ of withholding is issued.

(b) An order or writ of withholding is binding on an employer regardless of whether the employer is specifically named in the order or writ.

SECTION 44. Section 158.202, Family Code, is amended to read as follows:

Sec. 158.202. EFFECTIVE DATE OF AND DURATION OF WITHHOLDING. An employer shall begin to withhold income in accordance with an order or writ of withholding not later than the first pay period following the date on which the order or writ was delivered to the employer and shall continue to withhold income as required by ~~[provided in]~~ the order or writ as long as the obligor is employed by the employer.

SECTION 45. Section 158.205, Family Code, is amended to read as follows:

Sec. 158.205. HEARING REQUESTED BY EMPLOYER. (a) Not later than the 20th day after the date an order or writ of withholding is delivered, the employer may, as appropriate, file a motion with the court or file a request with the Title IV-D agency for a hearing on the applicability of the order or writ to the employer. The Title IV-D agency by rule shall establish procedures for an agency hearing under this section.

(b) The hearing under this section shall be held not later than the 15th day after the date the motion or request was made ~~[filed]~~.

(c) An order or writ of withholding remains binding and payments shall continue to be made pending further order of the court or, in the case of an administrative writ, action of the Title IV-D agency.

SECTION 46. Subsection (a), Section 158.206, Family Code, is amended to read as follows:

(a) An employer receiving an order or a writ of withholding under this chapter, including an order ~~or writ~~ directing that health insurance be provided to a child, who complies with the order or writ is not liable to the obligor for the amount of income withheld and paid as required by the ~~[provided in the]~~ order or writ.

SECTION 47. Subsection (b), Section 158.207, Family Code, is amended to read as follows:

(b) If the total amount due under the orders or writs exceeds the maximum amount allowed to be withheld under Section 158.009, the employer shall pay an equal amount towards the current support in each order or writ ~~[portion of all orders or writs]~~ until the employer has complied fully with each current support obligation ~~[order or writ]~~ and, thereafter, equal amounts on the arrearages until the employer has complied with each order or writ, or until the maximum total amount of allowed withholding is reached, whichever occurs first.

SECTION 48. Subsections (c) and (d), Section 158.209, Family Code, are amended to read as follows:

(c) If an employer intentionally discharges an employee in violation of this section, the employer continues to be liable to the employee for current wages and other benefits and for reasonable attorney's fees and court costs incurred ~~[by the employee]~~ in enforcing the employee's rights as provided in this section.

(d) An action under this section may be brought ~~[only]~~ by the employee, a friend of the court, the domestic relations office, or the Title IV-D agency.

SECTION 49. The heading for Subchapter D, Chapter 158, Family Code, is amended to read as follows:

SUBCHAPTER D. JUDICIAL WRIT OF WITHHOLDING
ISSUED BY CLERK

SECTION 50. Section 158.301, Family Code, is amended to read as follows:

Sec. 158.301. NOTICE OF APPLICATION FOR JUDICIAL WRIT OF WITHHOLDING; FILING. (a) A notice of application for judicial writ of withholding may be filed if:

(1) a delinquency occurs in child support payments in an amount equal to or greater than the total support due for one month; or

(2) income withholding was not ordered at the time child support was ordered.

(b) The notice of application for judicial writ of withholding may be filed in the court of continuing jurisdiction by:

(1) the Title IV-D agency;

(2) the attorney representing the local domestic relations office;

(3) the attorney appointed a friend of the court as provided in Chapter 202;

(4) the obligor or obligee; or

(5) a private attorney representing the obligor or obligee.

(c) The Title IV-D agency may ~~shall~~ in a Title IV-D case file a notice of application for judicial writ of withholding on request of the obligor or obligee.

SECTION 51. Section 158.302, Family Code, is amended to read as follows:

Sec. 158.302. CONTENTS OF NOTICE OF APPLICATION FOR JUDICIAL WRIT OF WITHHOLDING. The notice of application for judicial writ of withholding shall be verified and:

(1) state the amount of monthly support due, including medical support, the amount of arrearages or anticipated arrearages, including accrued interest, and the amount of wages that will be withheld in accordance with a judicial [by the] writ of withholding;

(2) state that the withholding applies to each current or subsequent employer or period of employment;

(3) state that if the obligor does not contest the withholding within 10 days after the date of receipt of the notice [of withholding], the obligor's employer will be notified to begin the withholding;

(4) describe the procedures for contesting the issuance and delivery of a writ of withholding;

(5) state that if the obligor contests the withholding, the obligor will be afforded an opportunity for a hearing by the court not later than the 30th day after the date of receipt of the notice of contest;

(6) state that the sole ground for successfully contesting the issuance of a writ [notice] of withholding is a dispute concerning the identity of the obligor or the existence or amount of the arrearages, including accrued interest;

(7) describe the actions that may be taken [the attorney will take] if the obligor contests the notice of application for judicial writ of withholding, including the procedures for suspending issuance of a writ of withholding; and

(8) include with the notice a suggested form for the motion to stay issuance and delivery of the judicial writ of withholding that the obligor may file with the clerk of the appropriate court.

SECTION 52. Subsections (a) and (c), Section 158.303, Family Code, are amended to read as follows:

(a) The [In a Title IV-D case, the] registration of a foreign support order as provided in Chapter 159 is sufficient for the filing of a notice of application for judicial writ of withholding.

(c) Notice of application for judicial writ of withholding may be delivered to the obligor at the same time that an order is filed for registration under Chapter 159.

SECTION 53. Section 158.304, Family Code, is amended to read as follows:

Sec. 158.304. ADDITIONAL ARREARAGES [ANTICIPATED VIOLATIONS]. If the notice of application for judicial writ of withholding states [claims] that the obligor has repeatedly failed to pay support in accordance with the underlying support [violated the] order, the judicial writ may include arrearages that accrue [movant may plead anticipated future violations of a similar nature may arise] between the filing of the notice and the date of the hearing or the issuance of a judicial writ of withholding.

SECTION 54. Section 158.306, Family Code, is amended to read as follows:

Sec. 158.306. DELIVERY OF NOTICE OF APPLICATION FOR JUDICIAL WRIT OF WITHHOLDING; TIME OF DELIVERY. (a) A notice of application for judicial writ of withholding may be delivered to the obligor by:

(1) hand delivery by a person designated by the Title IV-D agency or local domestic relations office;

(2) first-class or certified mail, return receipt requested, addressed to the obligor's last known address or place of employment; or

(3) by service of citation as in civil cases generally.

(b) If the notice is delivered by mailing or hand delivery, the party [attorney] who filed the notice shall file with the court a certificate stating the name, address, and date on which the mailing or hand delivery was made.

(c) Notice is considered to have been received by the obligor:

(1) if hand delivered, on the date of delivery;

(2) if mailed by certified mail, on the date of receipt;

(3) if mailed by first-class mail, on the 10th day after the date the notice was mailed; or

(4) if delivered by service of citation, on the date of service.

SECTION 55. Subsection (a), Section 158.307, Family Code, is amended to read as follows:

(a) The obligor may stay issuance of a judicial writ of withholding by filing a motion to stay [issuance] with the clerk of court not later than the 10th day after the date the notice of application for judicial writ of withholding was received.

SECTION 56. Section 158.308, Family Code, is amended to read as follows:

Sec. 158.308. EFFECT OF FILING MOTION TO STAY. The filing of a motion to stay [issuance] by an obligor in the manner provided by Section 158.307 prohibits the clerk of court from delivering the judicial writ of [income] withholding to any employer of the obligor before a hearing is held.

SECTION 57. Section 158.309, Family Code, is amended to read as follows:

Sec. 158.309. HEARING ON MOTION TO STAY. (a) If a motion to stay [issuance] is filed in the manner provided by Section 158.307, the court shall set a hearing on the motion and the clerk of court shall notify the obligor, obligee, or their authorized representatives, and the party [attorney] who filed the application for judicial writ [notice] of withholding of the date, time, and place of the hearing.

(b) The court shall hold a hearing on the motion to stay not later than the 30th day after the date the motion was filed, except that a hearing [~~on a motion to stay in a proceeding that is not in a Title IV-D case~~] may be held later than the 30th day after filing if both the obligor and obligee agree and waive the right to have the motion heard within 30 days.

(c) Upon [~~After the~~] hearing, the court shall:

(1) render an order for income withholding that includes a determination of the amount of child support arrearages, including medical support and interest; or

(2) grant the motion to stay ~~[deny the requested relief not later than the 45th day after the date the notice of withholding was received by the obligor].~~

SECTION 58. Subsections (a) and (c), Section 158.310, Family Code, are amended to read as follows:

(a) A defect in a notice of application for judicial writ of withholding is waived unless the respondent specially excepts in writing and cites with particularity the alleged defect, obscurity, or other ambiguity in the notice.

(c) If the court sustains an exception, the court shall provide the party [attorney] filing the notice ~~[of withholding]~~ an opportunity to refile ~~[the notice]~~ and the court shall continue the hearing to a date certain without the requirement of additional service.

SECTION 59. Subsection (a), Section 158.311, Family Code, is amended to read as follows:

(a) Payment of arrearages after receipt of notice of application for judicial writ of withholding may not be the sole basis for the court to refuse to order withholding.

SECTION 60. Subsection (a), Section 158.312, Family Code, is amended to read as follows:

(a) If a notice of application for judicial writ of withholding is delivered and a motion to stay is not filed within the time limits provided by Section 158.307, the party [attorney] who filed the notice ~~[of withholding]~~ shall file with the clerk of the court a request for issuance of the writ of withholding stating the amount of current support, including medical support, the amount of arrearages, and the amount to be withheld from the obligor's income ~~[by the clerk of the court].~~

SECTION 61. Section 158.314, Family Code, is amended to read as follows:

Sec. 158.314. CONTENTS OF WRIT OF WITHHOLDING. The judicial writ of income withholding issued by the clerk must direct that the employer or a subsequent employer ~~[to]~~ withhold from the obligor's disposable income for current child support, including medical support, and child support arrearages an amount that is consistent with the provisions of this chapter regarding orders of withholding.

SECTION 62. Section 158.315, Family Code, is amended to read as follows:

Sec. 158.315. EXTENSION OF REPAYMENT SCHEDULE BY PARTY [ATTORNEY]; UNREASONABLE HARDSHIP. If the party [attorney] who filed the notice of application for judicial writ of withholding finds that the schedule for repaying arrearages would cause the obligor, the obligor's family, or the children for whom the support is due from the obligor to suffer unreasonable hardship, the party [attorney] may extend the payment period in the writ.

SECTION 63. Section 158.317, Family Code, is amended to read as follows:

Sec. 158.317. FAILURE TO RECEIVE NOTICE OF APPLICATION FOR JUDICIAL WRIT OF WITHHOLDING. (a) Not later than the 30th day after the date of the first pay period following the date of delivery of the writ of withholding to the obligor's employer, the obligor may file an affidavit with the court that a motion to stay [~~issuance and delivery~~] was not timely filed because the notice of application for judicial writ of withholding was not received by the obligor and that grounds exist for a motion to stay [~~issuance and delivery~~].

(b) Concurrently with the filing of the affidavit, the obligor may file a motion to withdraw the writ of [~~income~~] withholding and request a hearing on the applicability of the writ [~~notice of delinquency~~].

(c) Income withholding may not be interrupted until after the hearing at which the court renders an order denying or modifying withholding.

SECTION 64. Section 158.319, Family Code, is amended to read as follows:

Sec. 158.319. ISSUANCE AND DELIVERY OF JUDICIAL WRIT OF WITHHOLDING TO SUBSEQUENT EMPLOYER. (a) After the issuance of a judicial writ of withholding by the clerk, a party [~~an attorney~~] authorized to file a notice of application for judicial writ of withholding under this subchapter may issue the judicial writ of withholding to a subsequent employer of the obligor by delivering to the employer by certified mail a copy of the writ.

(b) The judicial writ of withholding must include the name, address, and signature of the party [~~attorney~~] and clearly indicate that the writ is being issued to a subsequent employer.

(c) The party [~~attorney~~] shall file a copy of the judicial writ of withholding with the clerk not later than the third working day following delivery of the writ to the subsequent employer. The party [~~attorney~~] shall pay the clerk a fee of \$15 at the time the copy of the writ is filed.

(d) The party [~~attorney~~] shall file the postal return receipt from the delivery to the subsequent employer not later than the third working day after the party [~~attorney~~] receives the receipt.

SECTION 65. Subsection (b), Section 158.401, Family Code, is amended to read as follows:

(b) At the request of the [~~The~~] Title IV-D agency, [~~shall cause~~] the clerk of the court shall [~~to~~] issue a judicial [~~and to deliver a~~] writ of withholding to the obligor's employer reflecting any modification or changes in the amount to be withheld or the termination of withholding.

SECTION 66. Section 158.402, Family Code, is amended to read as follows:

Sec. 158.402. [~~EFFECT OF~~] AGREEMENT BY PARTIES REGARDING AMOUNT OR DURATION OF WITHHOLDING. (a) An [~~If an~~] obligor and obligee may agree on a reduction in or termination of income withholding for child support on the occurrence of one of the following contingencies stated in the order:

(1) the child becomes 18 years of age or is graduated from high school, whichever is later;

(2) the child's disabilities of minority are removed by marriage, court order, or other operation of law; or

(3) the child dies.

(b) The~~[-the]~~ obligor and obligee may file a notarized or acknowledged request with the clerk of the court under Section 158.011 for a revised judicial writ of withholding, including the termination of withholding.

(c) The clerk shall issue and deliver to an employer of the obligor a judicial writ of withholding [to the obligor's employer] that reflects the agreed revision [modification] or [the] termination of withholding.

(d) An agreement by the parties under this section does not modify the terms of a support order.

SECTION 67. Chapter 158, Family Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ADMINISTRATIVE WRIT OF WITHHOLDING
IN TITLE IV-D CASES

Sec. 158.501. ISSUANCE OF ADMINISTRATIVE WRIT OF WITHHOLDING. The Title IV-D agency may initiate income withholding by issuing an administrative writ of withholding for the enforcement of an existing order as authorized by this subchapter.

Sec. 158.502. WHEN ADMINISTRATIVE WRIT OF WITHHOLDING MAY BE ISSUED. An administrative writ of withholding under this subchapter may be issued at any time until all current support, including medical support, and child support arrearages have been paid.

Sec. 158.503. DELIVERY OF ADMINISTRATIVE WRIT TO EMPLOYER; FILING WITH COURT. (a) An administrative writ of withholding issued under this subchapter may be delivered to an employer by mail or by electronic transmission.

(b) Not later than the third business day after the date of delivery of the administrative writ of withholding to an employer, the Title IV-D agency shall file a copy of the writ, together with a certificate of service, in the court of continuing jurisdiction.

(c) The copy of the administrative writ of withholding filed with the clerk of court must include:

(1) the name, address, and signature of the authorized attorney or individual that issued the writ;

(2) the name and address of the employer served with the writ; and

(3) a true copy of the information provided to the employer.

Sec. 158.504. CONTENTS OF ADMINISTRATIVE WRIT OF WITHHOLDING. (a) The administrative writ of withholding must be in the form prescribed by the Title IV-D agency as required by this chapter and in a standard format authorized by the United States Department of Health and Human Services.

(b) An administrative writ of withholding issued under this subchapter may contain only the information that is necessary for the employer to comply with the existing withholding order, including the amount of current support and medical support, the amount of arrearages, accrued interest, and the amount of earnings to be withheld.

Sec. 158.505. NOTICE TO OBLIGOR. (a) On issuance of an administrative writ of withholding, the Title IV-D agency shall send the obligor:

- (1) notice that the withholding has commenced;
- (2) notice of the procedures to follow if the obligor desires to contest withholding on the grounds that the identity of the obligor or the existence or amount of arrearages is incorrect; and
- (3) a copy of the administrative writ, including the information concerning income withholding provided in the original writ to the employer.

(b) The notice required under this section may be sent to the obligor by:

- (1) personal delivery by a person designated by the Title IV-D agency;
- (2) first-class mail or certified mail, return receipt requested, addressed to the obligor's last known address; or
- (3) service of citation as in civil cases generally.

(c) The copy of the administrative writ of withholding delivered to the obligor shall include the information concerning income withholding provided in the original writ to the employer.

Sec. 158.506. CONTEST BY OBLIGOR TO ADMINISTRATIVE WRIT OF WITHHOLDING. (a) An obligor receiving the notice under Section 158.503 may request a review by the Title IV-D agency to resolve any issue in dispute regarding the identity of the obligor or the existence or amount of arrearages. The Title IV-D agency shall provide an opportunity for a review, by telephonic conference or in person, as may be appropriate under the circumstances.

(b) After a review under this section, the Title IV-D agency may issue a new administrative writ of withholding to the employer, including a writ modifying the amount to be withheld or terminating withholding.

(c) If a review under this section fails to resolve any issue in dispute, the obligor is entitled to the remedies provided by Section 158.317 for cases in which a notice of an application for judicial writ of withholding was not received. The obligor may file a motion with the court to withdraw the administrative writ and request a hearing with the court not later than the 30th day after receiving notice of the agency's determination. Income withholding may not be interrupted pending a hearing by the court.

Sec. 158.507. ADMINISTRATIVE WRIT TERMINATING WITHHOLDING. An administrative writ to terminate withholding may be issued and delivered to an employer by the Title IV-D agency when all current support, including medical support, and child support arrearages have been paid.

Sec. 158.508. INTERSTATE REQUEST FOR INCOME WITHHOLDING. An administrative writ of withholding may be issued in a Title IV-D interstate case on registration of a foreign support order as provided in Chapter 159.

SECTION 68. Section 231.002, Family Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) The Title IV-D agency may take the following administrative actions [any action] with respect to the location of a parent, the determination of

parentage, and the establishment, modification, and enforcement of child support and medical support orders required by 42 U.S.C. Section 666(c), without obtaining an order from any other judicial or administrative tribunal:

(1) issue an administrative subpoena, as provided by Section 231.303, to obtain financial or other information;

(2) order genetic testing for parentage determination, as provided by Chapter 233;

(3) order income withholding, as provided by Chapter 233, and issue an administrative writ of withholding, as provided by Chapter 158; and

(4) take any action with respect to execution, collection, and release of a judgment or lien for child support necessary to satisfy the judgment or lien, as provided by Chapter 157.

(e) The Title IV-D agency shall recognize and enforce the authority of the Title IV-D agency of another state to take actions similar to the actions listed in Subsection (d).

(f) The Title IV-D agency shall develop and use procedures for the administrative enforcement of interstate cases meeting the requirements of 42 U.S.C. Section 666(a)(14) under which the agency:

(1) shall respond within five business days to a request made by another state for assistance in a Title IV-D case; and

(2) may, by electronic or other means, transmit to another state a request for assistance in a Title IV-D case.

SECTION 69. Section 231.101, Family Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) At the request of either the obligee or obligor [parent], the Title IV-D agency shall review a child support order once every three years and, if appropriate, adjust the support amount to meet the requirements of the child support guidelines under Chapter 154.

(c) Except as notice is included in the child support order, a party subject to a support order shall be provided notice not less than once every three years of the party's right to request that the Title IV-D agency review and, if appropriate, adjust the amount of ordered support.

(d) The Title IV-D agency may review a support order at any time on a showing of a material and substantial change in circumstances, taking into consideration the best interests of the child.

SECTION 70. Subsection (a), Section 231.104, Family Code, is amended to read as follows:

(a) To the extent authorized by law, the [The] approval of an application for or the receipt of financial assistance as provided by Chapter 31, Human Resources Code, constitutes an assignment to the Title IV-D agency of any rights to support from any other person that the applicant or recipient may have personally or for a child for whom the applicant or recipient is claiming assistance, including the right to the amount accrued at the time the application is filed or the assistance is received.

SECTION 71. Section 231.105, Family Code, is amended to read as follows:

Sec. 231.105. NOTICE OF CHANGE OF PAYEE [ASSIGNMENT].

(a) Child support payments for the benefit of a child whose support rights

have been assigned to the Title IV-D agency shall be made payable to and transmitted to the Title IV-D agency.

(b) If a court has ordered support payments to be made to an applicant for or recipient of financial assistance or to a person other than the applicant or recipient, the Title IV-D agency shall, on providing notice to the obligee and the obligor, direct the obligor or other payor to make support payments payable to the Title IV-D agency and to transmit the payments to the agency. The Title IV-D agency shall [may] file a copy of the notice [of the assignment] with the court ordering the payments and with the child support registry. The notice must include:

(1) a statement that the child is an applicant for or recipient of financial assistance, or a child other than a recipient child for whom services are provided;

(2) the name of the child and the caretaker for whom support has been ordered by the court;

(3) the style and cause number of the case in which support was ordered; and

(4) instructions for the payment of [a request that the payments] ordered support [be made payable and transmitted] to the agency.

(c) On receipt of a copy of the notice under Subsection (b) [and without a requirement of a hearing], the clerk of the court shall file the notice in the appropriate case file [order that the payments be made to the Title IV-D agency].

SECTION 72. Section 231.106, Family Code, is amended to read as follows:

Sec. 231.106. NOTICE OF TERMINATION OF ASSIGNMENT. (a) On termination of support rights to the Title IV-D agency, the [The] Title IV-D agency shall, after providing notice to the obligee and the obligor, send [may file] a notice of termination of assignment to the obligor or other payor, which may direct [include a request] that all or a portion of the payments be made payable to the agency and to other persons who are entitled to receive the payments.

(b) The Title IV-D agency shall send a copy of the notice of termination of assignment to the court ordering the support and to the child support registry, and on [On] receipt of the notice [of termination of assignment] the clerk of the court shall file the notice in the appropriate case file [order that the payments be directed as stated in the notice].

SECTION 73. Section 231.107, Family Code, is amended to read as follows:

Sec. 231.107. CERTIFICATE OF ASSIGNMENT OR OF TERMINATION OF ASSIGNMENT. If an abstract of judgment or a child support lien on support amounts assigned to the Title IV-D agency under this chapter has previously been filed of record, the agency shall file for recordation, with the county clerk of each county in which such abstract or lien has been filed, a certificate that a notice of change of payee [an order of assignment] or a notice of termination of assignment has been issued by the agency.

SECTION 74. Section 231.108, Family Code, is amended by adding Subsection (e) to read as follows:

(e) The Title IV-D agency may not release information on the physical location of a person if:

- (1) a protective order has been entered with respect to the person; or
- (2) there is reason to believe that the release of information may result in physical or emotional harm to the person.

SECTION 75. Subchapter B, Chapter 231, Family Code, is amended by adding Section 231.115 to read as follows:

Sec. 231.115. NONCOOPERATION BY RECIPIENT OF PUBLIC ASSISTANCE. (a) The failure by a person who is a recipient of public assistance under Chapter 31, Human Resources Code, to provide accurate information as required by Section 31.0315, Human Resources Code, shall serve as the basis for a determination by the Title IV-D agency that the person did not cooperate with the Title IV-D agency.

(b) The Title IV-D agency shall adopt rules establishing the actions or failures to act by a recipient of public assistance that constitute noncooperation with the Title IV-D agency.

(c) In adopting rules under this section that establish the basis for determining that a person has failed to cooperate with the Title IV-D agency, the Title IV-D agency shall consider whether:

- (1) good cause exists for the failure to cooperate;
- (2) the person has failed to disclose the name and location of an alleged or probable parent of the child, if known by the person, at the time of applying for public assistance or at a subsequent time; and
- (3) the person named a man as the alleged father and the man was subsequently excluded by parentage testing as being the father if the person has previously named another man as the child's father.

SECTION 76. Section 231.301, Family Code, is amended to read as follows:

Sec. 231.301. TITLE IV-D PARENT LOCATOR SERVICES. The parent locator service conducted by the Title IV-D agency shall be used to obtain information for child support enforcement purposes regarding the identity, social security number, location [whereabouts], employer and employment benefits, income, and assets or debts [holdings] of any individual under an obligation to pay child or medical support or to whom a support obligation is owed [person when the information is to be used for the purposes of locating the person and establishing or enforcing a support or medical support obligation against the person].

SECTION 77. Section 231.302, Family Code, is amended by amending Subsections (a), (b), and (e) and adding Subsection (g) to read as follows:

(a) The Title IV-D agency of this or another state may [shall attempt to locate a person needed to establish or enforce a support or medical support obligation and is entitled to] request and obtain information relating to the identity, location, employment, compensation, benefits, income, and property holdings or other assets of any [the] person from a state or local government agency, private company, institution, or other entity as necessary to establish, modify, or enforce a support order [implement this chapter].

(b) A [state] government agency, private company, institution, or other entity shall provide the [furnishing] information requested under Subsection (a) and shall provide the information, subject to safeguards for privacy and information security, in the most efficient and expeditious manner available, including electronic or automated transfer and interface. An individual or entity disclosing information under this section in response to a request from a Title IV-D agency may not be held liable in a civil action or proceeding for the disclosure of the information.

(e) Except as provided by Subsection (d), a social security number provided under this section is confidential and may be disclosed only for the purposes of responding to a request for information from an agency operating under the provisions of Part ~~[Parts]~~ A or ~~[and]~~ D of Title IV of the federal Social Security Act (42 U.S.C. Sections ~~601 et seq. [601-617]~~ and ~~651 et seq. [651-669]~~).

(g) In this section, "licensing authority" has the meaning assigned by Section 232.001.

SECTION 78. Section 231.303, Family Code, is amended to read as follows:

Sec. 231.303. TITLE IV-D ADMINISTRATIVE SUBPOENA. (a) The Title IV-D agency of this state or another state may issue an administrative subpoena to any individual or private or public entity in this state [organization] to furnish information necessary to carry out the purposes [provisions] of child support enforcement under 42 U.S.C. Section 651 et seq. or this chapter.

(b) An individual or entity [organization] receiving an administrative [a] subpoena under this section shall comply with the subpoena. The Title IV-D agency may impose a fine in an amount not to exceed \$500 on an individual or entity that fails without good cause to comply with an administrative subpoena. An alleged or presumed father or a parent who fails to comply with a subpoena without good cause may also be subject to license suspension under Chapter 232.

(c) A court may compel compliance with an administrative subpoena and with any administrative fine for failure to comply with the subpoena and may award attorney's fees and costs to the Title IV-D agency in enforcing an administrative subpoena on proof that an individual or organization failed without good cause to comply with the subpoena.

(d) An individual or organization may not be liable in a civil action or proceeding for disclosing financial or other information to a Title IV-D agency under this section. The Title IV-D agency may disclose information in a financial record obtained from a financial institution only to the extent necessary to establish, modify, or enforce a child support obligation.

SECTION 79. Subchapter D, Chapter 231, Family Code, is amended by adding Section 231.307 to read as follows:

Sec. 231.307. FINANCIAL INSTITUTION DATA MATCHES. (a) The Title IV-D agency shall develop a system meeting the requirements of 42 U.S.C. Section 666(a)(17) for the quarterly exchange of data with financial institutions doing business in the state to identify an account of an

obligor owing past-due child support and enforce support obligations against the obligor.

(b) The Title IV-D agency by rule shall establish procedures for data matches authorized under this section.

(c) A financial institution providing information or responding to a notice of child support lien provided under Subchapter G, Chapter 157, or otherwise acting in good faith to comply with the Title IV-D agency's procedures under this section may not be liable under any federal or state law for any damages that arise from those acts.

(d) In this section:

(1) "Financial institution" has the meaning assigned by 42 U.S.C. Section 669a(d)(1); and

(2) "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money market mutual fund account.

SECTION 80. Subchapter E, Chapter 231, Family Code, is redesignated as Chapter 233, Family Code, and amended to read as follows:

CHAPTER 233 [SUBCHAPTER E]. CHILD SUPPORT
REVIEW PROCESS TO ESTABLISH OR
ENFORCE SUPPORT OBLIGATIONS

Sec. 233.001 ~~[231.401]~~. PURPOSE. (a) The purpose of the procedures specified in the child support review process authorized by this chapter [subchapter] is to enable the Title IV-D agency [provide child support agencies an opportunity] to take expedited administrative [resolve routine child support] actions to establish, modify, and enforce child support and medical support obligations, to determine parentage, or to take any other action authorized or required under Part D, Title IV, of the federal Social Security Act (42 U.S.C. Section 651 et seq.), and Chapter 231 [through agreement of the parties or uncontested orders].

(b) A child support review order issued under this chapter and confirmed by a court constitutes an order of the court and is enforceable by any means available for the enforcement of child support obligations under this code, including withholding income, filing a child support lien, and suspending a license under Chapter 232.

Sec. 233.002 ~~[231.402]~~. AGREEMENTS ENCOURAGED. To the extent permitted by this chapter [subchapter], the Title IV-D agency [child support agencies] shall [make the child support review process understandable to all parties and shall] encourage agreement of the parties [agreements].

Sec. 233.003 ~~[231.403]~~. BILINGUAL FORMS REQUIRED. A notice or other form used to implement administrative procedures under this chapter [the child support review process] shall be printed in both Spanish and English.

Sec. 233.004 ~~[231.404]~~. INTERPRETER REQUIRED. If a party participating in an administrative proceeding under this chapter [a negotiation conference] does not speak English or is hearing impaired, the Title IV-D [child support] agency shall provide for interpreter services at no charge to the party [parties].

Sec. 233.005 ~~[231.405]~~. INITIATING ADMINISTRATIVE ACTIONS ~~[CHILD SUPPORT REVIEW]~~. An administrative action under this chapter ~~[subchapter]~~ may be initiated by issuing a notice of child support review under Section 233.006 or a notice of proposed child support review order under Section 233.009 to each party entitled to notice.

Sec. 233.006 ~~[231.406]~~. CONTENTS OF NOTICE OF CHILD SUPPORT REVIEW. (a) The notice of child support review issued by the Title IV-D agency must:

(1) describe the procedure for a child support review, including the procedures for requesting a negotiation conference;

(2) inform the recipient that the recipient may be represented by legal counsel during the review process or at a court hearing;

(3) inform the recipient that the recipient may refuse to participate or cease participation in the child support review process, but that the refusal by the recipient to participate will not prevent the completion of the process or the filing of a child support review order;

(4) include an affidavit of financial resources to be executed by the recipient; and

(5) include a request that the recipient designate, on a form provided by the Title IV-D ~~[child support]~~ agency, an address for mailing any subsequent ~~[additional]~~ notice to the recipient.

(b) In addition to the information required by Subsection (a), the notice of child support review must inform the recipient that:

(1) the information requested on the form must be returned to the Title IV-D ~~[child support]~~ agency not later than the 15th day after the date the notice is received or delivered; and

(2) if the requested information is not returned as required, the ~~[child support]~~ agency may:

(A) ~~[may]~~ proceed with the review using the information that is available to the agency; and

(B) ~~[may]~~ file a legal action without further notice to the recipient, except as otherwise required by law.

Sec. 233.007 ~~[231.407]~~. SERVICE OF NOTICE ~~[BY MAIL]~~. (a) A notice required in an administrative action under this chapter ~~[subchapter]~~ may ~~[subchapter must]~~ be delivered by personal service or ~~[served by]~~ first class mail ~~[or certified mail]~~ on each party entitled to citation or notice as provided by Chapter 102.

(b) This section does not apply to notice required on filing of a child support review order or to later judicial actions.

Sec. 233.008 ~~[231.408]~~. ADMINISTRATIVE SUBPOENA IN CHILD SUPPORT REVIEW. ~~[(a)]~~ In a child support review under this chapter ~~[subchapter]~~, the Title IV-D ~~[a child support]~~ agency may issue an administrative subpoena authorized under Chapter 231 to any individual or organization believed to have financial or other information needed to establish, modify, or enforce a support order ~~[on the financial resources of the parent or presumed or alleged father]~~.

~~[(b)] A court may compel compliance with an administrative subpoena and award attorney's fees and costs to a child support agency enforcing an~~

~~administrative subpoena on proof that an individual or organization failed to comply with the subpoena without good cause.]~~

Sec. 233.009 [231.409]. NOTICE OF PROPOSED CHILD SUPPORT REVIEW ORDER; [SCHEDULING] NEGOTIATION CONFERENCE. (a) After an investigation and assessment of financial resources, the Title IV-D agency may serve on the parties a notice of proposed child support review order in enforcing or modifying an existing order.

(b) The notice of proposed child support review order shall state:

(1) the amount of periodic payment of child support due, the amount of any overdue support that is owed as an arrearage as of the date of the notice, and the amounts that are to be paid by the obligor for current support due and in payment on the arrearage owed;

(2) that the person identified in the notice as the party responsible for payment of the support amounts may contest the notice order on the grounds that:

(A) the respondent is not the responsible party;

(B) the dependent child is no longer entitled to child support; or

(C) the amount of monthly support or arrearage is incorrectly stated; and

(3) that, if the person identified in the notice as the party responsible for payment of the support amounts does not contest the notice in writing or request a negotiation conference to discuss the notice not later than the 15th day after the date the notice was delivered, the Title IV-D agency may file a child support review order for child support and for medical support for the child as provided by Chapter 154 according to the information available to the agency.

(c) The Title IV-D [child support] agency may schedule a negotiation conference without a request from a party.

(d) [(b)] The Title IV-D [child support] agency shall schedule a negotiation conference on the timely request of a party.

(e) [(c)] The agency may conduct a [A] negotiation conference, or any part of a negotiation conference, [may be conducted] by telephone conference call, by video conference, as well as in person and may adjourn the [The negotiation] conference [may be adjourned] for a reasonable time to permit mediation of issues that cannot be resolved by the parties and the [child support] agency.

Sec. 233.010 [231.410]. NOTICE OF [TIME FOR] NEGOTIATION CONFERENCE; FAILURE TO ATTEND CONFERENCE [NOTICE REQUIRED]. (a) The Title IV-D agency shall notify all [AH] parties entitled to notice of the negotiation conference [shall be notified] of the date, time, and place of the [negotiation] conference not later than the 10th day before the date of the [negotiation] conference.

(b) If a party fails to attend the scheduled conference, the agency may proceed with the review and file a child support review order according to the information available to the agency.

Sec. 233.011 [231.411]. RESCHEDULING NEGOTIATION CONFERENCE; NOTICE REQUIRED. (a) The Title IV-D agency may

reschedule or adjourn a ~~[A]~~ negotiation conference ~~[may be rescheduled or adjourned]~~ on the request of any party ~~[at the discretion of the child support review officer]~~.

(b) The Title IV-D agency shall give all ~~[All]~~ parties ~~[must be given]~~ notice of a rescheduled conference ~~[the rescheduling]~~ not later than the third day before the date of the rescheduled ~~[negotiation]~~ conference.

Sec. 233.012 ~~[231.412]~~. INFORMATION REQUIRED TO BE PROVIDED AT NEGOTIATION CONFERENCE. At the beginning of the negotiation conference, the child support review officer shall review with the parties participating in the conference information provided in the notice of child support review and inform the parties that:

(1) the purpose of the negotiation conference is to provide an opportunity to reach an agreement on a child support order;

(2) if the parties reach an agreement, the review officer will prepare an agreed review order to be effective immediately on being confirmed by the court, as provided by Section 233.024;

(3) a party does not have to sign a review order prepared by the child support review officer but that the Title IV-D agency may file a review order without the agreement of the parties; [and]

(4) the parties may sign a waiver of the right to service of process;

(5) a party may request a court hearing on a nonagreed order at any time before the 20th day after the date a petition for confirmation of the order is filed; and

(6) a party may file a motion for a new trial at any time before the 30th day after an order is confirmed by the court.

Sec. 233.013 ~~[231.413]~~. DETERMINING SUPPORT AMOUNT; MODIFICATION. (a) ~~The Title IV-D [A child support]~~ agency may use any information obtained by the agency from the parties or any other source and shall apply the child support guidelines provided by this code to determine the appropriate amount of child support.

(b) If it has been three years since a child support order was rendered or last modified and the amount of the child support award under the order differs by either 20 percent or \$100 from the amount that would be awarded under the child support guidelines, the Title IV-D [child support] agency [determines that the support amount in an existing child support order is not in substantial compliance with the guidelines; the child support agency] shall file [issue] an appropriate child support review order, including an [a review] order that has the effect of modifying an existing court or administrative order for child support without the necessity of filing a motion to modify.

Sec. 233.014 ~~[231.414]~~. RECORD OF PROCEEDINGS ~~[NOT REQUIRED]~~. (a) For the purposes of this chapter ~~[subchapter]~~, documentary evidence relied on by the child support review officer, including an affidavit of a party, together with the child support review order is a sufficient record of the proceedings.

(b) ~~The Title IV-D [A child support]~~ agency is not required to make any other record or transcript of the negotiation conference.

Sec. 233.015 ~~[231.415]~~. ISSUANCE OF CHILD SUPPORT REVIEW ORDER OR FINDING THAT NO ORDER SHOULD BE ISSUED; EFFECT.

(a) If a ~~[the]~~ negotiation conference does not result in agreement by all parties to the child support review order, the Title IV-D agency [review officer] shall ~~render [promptly issue and sign]~~ a final decision in the form of a child support review order or a determination that the agency should not issue a child support review order ~~[should not be issued;]~~ not later than the fifth day after the date of the negotiation conference.

(b) If ~~the Title IV-D agency determines [a determination is made]~~ that the agency should not issue a child support order ~~[will not be issued]~~, the agency shall immediately provide each party with notice of the determination [each party to a child support review proceeding shall be furnished immediately] by personal ~~[hand]~~ delivery or by first class mail [notice of the determination].

(c) A determination that a child support order should not be issued must include a statement of the reasons that an order is not being issued and a statement that the agency's determination does not affect the right of the Title IV-D agency or a party to request any other remedy provided by law.

Sec. 233.016 [231.416]. VACATING CHILD SUPPORT REVIEW ORDER. (a) The Title IV-D agency [review officer] may vacate a child support review order ~~[on the officer's own motion]~~ at any time before the order is filed with the court.

(b) A new negotiation conference, with notice to all parties, may be scheduled or the Title IV-D agency [officer] may make a determination that a child support review order should not be issued and give notice of that determination as provided by this chapter ~~[subchapter]~~.

Sec. 233.017 [231.417]. CONTENTS OF CHILD SUPPORT REVIEW ORDER. (a) An ~~[agreed child support review]~~ order issued under this chapter must be reviewed and signed by an attorney of the Title IV-D agency and must contain all provisions that are appropriate for an order under this title, including current child support, medical support, a determination of any arrearages or retroactive support, and, if not otherwise ordered, income withholding.

(b) ~~[A child support review order that is not agreed to must include child support and medical support provisions, including a determination of arrearages or retroactive support.]~~

~~[(c)]~~ A child support review order providing for the enforcement of an order may not contain a provision that imposes incarceration or a fine or contains a finding of contempt.

~~[(c)]~~ ~~[(d)]~~ A child support review order that establishes or modifies an amount of previously ordered support must include the findings required by Section 154.130.

~~[(d)]~~ ~~[(e)]~~ A child support review order that is not agreed to by all the parties may specify and reserve for the court at the confirmation hearing unresolved issues relating to conservatorship or possession of a child.

Sec. 233.018 [231.418]. ADDITIONAL CONTENTS OF AGREED CHILD SUPPORT REVIEW ORDER. If a negotiation conference results in an agreement of the parties, each party must sign the child support review order and the order [must be signed by each party who agrees to the order,] must contain ~~[the provisions required by Section 231.417, and,]~~ as to each party ~~[in agreement with the order, must contain]:~~

- (1) a waiver by the party of the right to service of process and a court hearing and the making of a record on the petition for confirmation;
- (2) the mailing address of the party; and
- (3) the following statement printed on the order in boldface or in all capital letters:

"I KNOW THAT I DO NOT HAVE TO SIGN THIS CHILD SUPPORT REVIEW ORDER. I UNDERSTAND THAT IF I SIGN THIS ORDER, IT WILL BE CONFIRMED BY THE COURT WITHOUT FURTHER NOTICE TO ME. ~~[I KNOW THAT I HAVE A RIGHT TO BE PERSONALLY SERVED WITH THE PETITION FOR CONFIRMATION OF THIS ORDER.]~~ I KNOW THAT I HAVE A RIGHT TO ~~[CHANGE MY MIND AND WITHDRAW MY AGREEMENT TO THE TERMS OF THIS ORDER AND]~~ REQUEST THAT A COURT RECONSIDER THE ORDER ~~[DECIDE THIS MATTER]~~ BY FILING A MOTION FOR A NEW TRIAL ~~[REQUEST FOR COURT HEARING]~~ AT ANY TIME BEFORE THE 30TH ~~[20TH]~~ DAY AFTER THE DATE OF THE ~~[PETITION FOR]~~ CONFIRMATION OF THE ORDER BY ~~[IS FILED WITH THE CLERK OF]~~ THE COURT. ~~[I KNOW THAT IF I FAIL TO FILE A REQUEST FOR A COURT HEARING A COURT MAY CONFIRM AND APPROVE THIS ORDER WITHOUT A HEARING, AND THE ORDER WILL BECOME A VALID COURT ORDER.]~~ I KNOW THAT IF I DO NOT OBEY THE TERMS OF THIS ORDER I MAY BE HELD IN CONTEMPT OF COURT."

Sec. 233.019 ~~[231.419]~~. FILING OF AGREED REVIEW ORDER ~~[PETITION FOR CONFIRMATION]~~. (a) The Title IV-D ~~[child support]~~ agency shall file an agreed child support review order and a waiver of service signed by the parties ~~[a petition for confirmation]~~ with the clerk of the court having continuing jurisdiction of the child who is the subject of the order.

(b) If there is not a court of continuing jurisdiction, the Title IV-D ~~[child support]~~ agency shall file the agreed review order ~~[petition for confirmation]~~ with the clerk of a court having jurisdiction under this title.

(c) If applicable, a statement of paternity or a written report of a parentage testing expert and any documentary evidence relied upon by the agency shall be filed with the agreed review order as an exhibit to the order.

Sec. 233.020 ~~[231.420]~~. CONTENTS OF PETITION FOR CONFIRMATION OF NONAGREED ORDER ~~[DOCUMENTARY EVIDENCE TO BE FILED WITH PETITION]~~. (a) A petition for confirmation of a child support review order not agreed to by the parties must ~~[shall]~~ include the final ~~[child support]~~ review order as an attachment to the petition.

(b) Documentary evidence relied on by the Title IV-D ~~[child support]~~ agency, including, if applicable, a statement of paternity or a written report of a parentage testing expert, shall be filed with the clerk as exhibits to the petition, but are not required to be served on the parties. The petition must identify the exhibits that are filed with the clerk.

Sec. 233.021 ~~[231.421]~~. DUTIES OF CLERK OF COURT. (a) On the filing of an agreed child support review order or of a petition for confirmation of a nonagreed order issued by the Title IV-D agency, the clerk of court shall

endorse on the order or petition the date and time the order or ~~[that the]~~ petition is filed.

(b) ~~In [If the petition is for]~~ an original action, the clerk shall endorse the appropriate court and cause number on the agreed review order or on the petition for confirmation of a nonagreed order.

(c) ~~[If the petition is to confirm an agreed child support review order under this subchapter, the child support agency shall mail to each party that agreed to the order, at the address shown on the order, a copy of the petition with the court, filing date, and cause number of the case. The clerk shall note on the docket that the notice was mailed. The child support agency shall file a certificate of service showing the date of the mailing to each party.]~~

~~[(d)]~~ The clerk shall deliver by personal service ~~[issue service of citation, including]~~ a copy of the petition for confirmation of a nonagreed review order and a copy of the [child support review] order, to each party entitled to service who has not waived service.

(d) ~~[(e)]~~ A clerk of a district court is entitled to collect in a child support review case the fees authorized in a Title IV-D case by Chapter 231 [this chapter].

Sec. 233.022 [231.422]. FORM TO REQUEST A COURT HEARING ON NONAGREED ORDER. (a) A court shall consider any responsive pleading that is intended as an objection to confirmation of a child support review order not agreed to by the parties, including a general denial, as a request for a court hearing.

(b) The Title IV-D [child support] agency shall:

(1) make available to each clerk of court copies of the form to request a court hearing on a nonagreed review order; and

(2) provide the form to request a court hearing to a party to the child support review proceeding on request of the party.

(c) The clerk shall furnish the form to a party to the child support review [a] proceeding [under this subchapter] on the request of the party.

Sec. 233.023 [231.423]. TIME TO REQUEST A COURT HEARING. A party may file a request for a court hearing not later than the 20th day after the date the petition for confirmation of a nonagreed child support review order is delivered to the party ~~[served or mailed as provided by this subchapter].~~

Sec. 233.024 [231.424]. CONFIRMATION OF AGREED ORDER [WITHOUT HEARING]. (a) If the court finds that all parties have appropriately agreed to a child support review order and that there is waiver of service, the court shall sign the order not later than the third day after the filing of the order.

(b) On confirmation by the court, the Title IV-D agency shall immediately deliver to each party a copy of the signed agreed review order. [Not later than the 30th day after the date a petition for confirmation that includes waivers by all parties is filed or after the date of service is made on the last party required to be served for a petition for confirmation that does not include waivers, whichever is later, the court shall confirm the child support review order by signing an order of confirmation unless a party has filed a timely request for hearing or the court has scheduled a hearing.]

Sec. 233.025 [231-425]. EFFECT OF REQUEST FOR HEARING ON NONAGREED ORDER; PLEADING. (a) A request for hearing or an order setting a hearing on confirmation of a nonagreed child support review order stays confirmation of the order pending the hearing.

(b) At a hearing on confirmation, any [all] issues in dispute [~~the child support review order~~] shall be heard in a trial de novo.

(c) The petition for confirmation and the child support review order constitute a sufficient pleading by the Title IV-D [~~child support~~] agency for relief on any issue addressed in the petition and order.

(d) The request for hearing may limit the scope of the de novo hearing by specifying the issues that are in dispute.

Sec. 233.026 [231-426]. TIME FOR COURT HEARING. A court shall hold a hearing on the confirmation of a child support review order that has not been agreed to by the parties not later than the 30th day after the date the last party to be served files a timely request for a court hearing.

Sec. 233.027 [231-427]. ORDER AFTER HEARING; EFFECT OF CONFIRMATION ORDER. (a) After the hearing on the confirmation of a nonagreed child support review order, the court shall:

(1) if the court finds that the order should be confirmed, immediately sign a confirmation order and enter the order as an order of the court;

(2) if the court finds that the relief granted in the child support review order is inappropriate, sign an appropriate order at the conclusion of the hearing or as soon after the conclusion of the hearing as is practical and enter the order as an order of the court; or

(3) if the court finds that all relief should be denied, enter an order that denies relief and includes specific findings explaining the reasons that relief is denied.

(b) On the signing of a confirmation order by the judge of the court, the child support review order becomes a final order of the court.

Sec. 233.0271. CONFIRMATION OF NONAGREED ORDER WITHOUT HEARING. (a) If a request for hearing has not been timely received, the court shall confirm and sign a nonagreed child support review order not later than the 30th day after the date the petition for confirmation was delivered to the last party entitled to service.

(b) The Title IV-D agency shall immediately deliver a copy of the confirmed nonagreed review order to each party, together with notice of right to file a motion for a new trial not later than the 30th day after the date the order was confirmed by the court.

Sec. 233.028 [231-428]. SPECIAL CHILD SUPPORT REVIEW PROCEDURES RELATING TO ESTABLISHMENT OF PARENTAGE.

(a) If the parentage of a child has not been established, the notice of child support review delivered to [~~served on~~] the parties must include an allegation that the recipient is a biological parent of the child. The notice shall inform the parties that:

(1) not later than the 15th day after the date of delivery of the notice, the alleged parent [~~father~~] of the child shall either [~~may~~] sign a statement of paternity or an acknowledgment of paternity or deny in writing that the alleged parent is the biological parent of the child;

(2) either ~~[and that any]~~ party may request that scientifically accepted parentage testing be conducted to assist in determining the identities of the child's parents;

(3) if the alleged parent timely denies parentage of the child, the Title IV-D agency shall order parentage testing; and

(4) if the alleged parent does not deny parentage of the child, the Title IV-D agency may conduct a negotiation conference.

(b) If all parties agree [A negotiation conference shall be conducted to resolve any issues of support in an action in which all parties agree as] to the child's parentage, the agency may file an agreed child support review order as provided by this chapter.

(c) If a party denies parentage, the Title IV-D [child support] agency shall order [may schedule] parentage testing and give each party notice of the time and place of testing. If either party fails or refuses to participate in administrative parentage testing, the Title IV-D [child support] agency may file a child support review order resolving the question of parentage against that party [with a request for court-ordered parentage testing. The court shall follow the procedures and may impose the sanctions provided by this code to obtain compliance with the parentage testing order]. The court shall confirm the child support review order as a temporary or final order of the court only after an opportunity for parentage testing has been provided.

(d) If parentage testing does not exclude the alleged parent and the results of a verified written report of a parentage testing expert meet the requirements of Chapter 160 for issuing a temporary order, the Title IV-D [child support] agency may conduct a negotiation conference to resolve any issues of support and file with the court [issue] a child support review order.

(e) If the results of parentage testing exclude an alleged parent from being the biological parent of the child, the Title IV-D [child support] agency shall issue and provide to each party a child support review order that declares that the excluded person is not a parent of the child.

(f) Any party may file a petition for confirmation of a child support review order issued under this section.

Sec. 233.029 [231.429]. ADMINISTRATIVE PROCEDURE LAW NOT APPLICABLE. The child support review process under this chapter is not governed by ~~[the administrative procedure law;]~~ Chapter 2001, Government Code.

SECTION 81. The title of Chapter 232, Family Code, is amended to read as follows:

CHAPTER 232. SUSPENSION OF LICENSE FOR FAILURE
TO PAY CHILD SUPPORT OR COMPLY WITH SUBPOENA

SECTION 82. Section 232.001, Family Code, is amended by adding Subdivision (4) to read as follows:

(4) "Subpoena" means a subpoena issued in a parentage determination or child support proceeding under this title.

SECTION 83. Section 232.003, Family Code, as added by Chapter 751, Acts of the 74th Legislature, 1995, is amended to read as follows:

Sec. 232.003. SUSPENSION OF LICENSE. (a) A court or the Title IV-D agency may issue an order suspending a license as provided by this chapter if an individual who is an obligor:

(1) has a child support ~~[an]~~ arrearage equal to or greater than the total support due for 90 days under a support order;

(2) has been provided an opportunity to make payments toward the child support arrearage under an agreed or court-ordered repayment schedule; and

(3) has failed to comply with the repayment schedule.

(b) A court or the Title IV-D agency may issue an order suspending license as provided by this chapter if an individual has failed, after receiving appropriate notice, to comply with a subpoena.

SECTION 84. Subsection (d), Section 232.004, Family Code, is amended to read as follows:

(d) A proceeding in a case filed with the Title IV-D agency under this chapter is governed by the contested case provisions of Chapter 2001, Government Code, except that Section 2001.054 does not apply to the proceeding. The director of the Title IV-D agency or the director's designee may render [is responsible for rendering] a final decision in a ~~[the]~~ contested case proceeding under this chapter.

SECTION 85. Section 232.005, Family Code, is amended to read as follows:

Sec. 232.005. CONTENTS OF PETITION. (a) A petition under this chapter must state that license suspension is required under Section 232.003 and allege:

(1) the name and, if known, social security number of the individual ~~[obligor]~~;

(2) the type, and if known, number of any license the individual ~~[obligor]~~ is believed to hold and the name of the licensing authority that issued the license; and

(3) the amount of arrearages owed under the child support order or the facts associated with the individual's failure to comply with a subpoena, ~~the amount of support paid, and the amount of arrearages~~.

(b) A petition under this chapter may include as an attachment a copy of:

~~(1) the record of child support payments maintained by the Title IV-D registry or local registry; or~~

(2) the subpoena with which the individual has failed to comply, together with proof of service of the subpoena.

SECTION 86. Subsections (a) and (c), Section 232.006, Family Code, are amended to read as follows:

(a) On the filing of a petition under Section 232.004, the court or ~~the~~ Title IV-D agency shall deliver [issue] to the individual ~~[obligor]~~:

(1) notice of the individual's ~~[obligor's]~~ right to a hearing before the court or agency;

(2) notice of the deadline for requesting a hearing; and

(3) a hearing request form if the proceeding is in a Title IV-D case.

(c) The notice must contain the following statement in bold-faced type or capital letters:

"AN ACTION TO SUSPEND ONE OR MORE LICENSES ISSUED TO YOU HAS BEEN FILED. YOU MAY EMPLOY AN ATTORNEY TO REPRESENT YOU IN THIS ACTION. IF YOU OR YOUR ATTORNEY DO

NOT REQUEST A HEARING BEFORE THE 21ST DAY AFTER THE DATE OF SERVICE OF THIS NOTICE. AN ORDER OF LICENSE SUSPENSION MAY BE RENDERED." ~~[state that an order suspending license shall be rendered on the 60th day after the date of service of the notice unless by that date:~~

~~[(1) the court or Title IV-D agency receives proof that all arrearages and the current month's child support obligation have been paid;~~

~~[(2) the child support agency or obligee files a certification that the obligor is in compliance with a reasonable repayment schedule; or~~

~~[(3) the obligor appears at a hearing before the court or Title IV-D agency and shows that the request for suspension should be denied or stayed.]~~

SECTION 87. Section 232.007, Family Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) A request for a hearing and motion to stay suspension must be filed with the court or Title IV-D agency by the individual [obligor] not later than the 20th day after the date of service of the notice under Section 232.006.

(c) In a case involving support arrearages, a [A] record of child support payments made by the Title IV-D agency or a local registry is evidence of whether the payments were made. A copy of the record appearing regular on its face shall be admitted as evidence at a hearing under this chapter, including a hearing on a motion to revoke a stay. Either party may offer controverting evidence.

(d) In a case in which an individual has failed to comply with a subpoena, proof of service is evidence of delivery of the subpoena.

SECTION 88. Section 232.008, Family Code, is amended to read as follows:

Sec. 232.008. ORDER SUSPENDING LICENSE FOR FAILURE TO PAY CHILD SUPPORT. (a) On making the findings required by Section 232.003, the court or Title IV-D agency shall render an order suspending the license unless the individual:

(1) [obligor] proves that all arrearages and the current month's support have been paid; or

(2) shows good cause for failure to comply with the subpoena.

(b) The court or Title IV-D agency may stay an order suspending a license conditioned on the individual's [obligor's] compliance with:

(1) a reasonable repayment schedule that is incorporated in the order; or

(2) the requirements of a reissued and delivered subpoena.

(c) An order suspending a license with a stay of the suspension may not be served on the licensing authority unless the stay is revoked as provided by this chapter.

(d) ~~(c)~~ A final order suspending license rendered by a court or the Title IV-D agency shall be forwarded to the appropriate licensing authority.

(e) ~~(d)~~ If the court or Title IV-D agency renders an order suspending license, the individual [obligor] may also be ordered not to engage in the licensed activity.

(f) ~~(e)~~ If the court or Title IV-D agency finds that the petition for suspension should be denied, the petition shall be dismissed without prejudice, and an order suspending license may not be rendered.

SECTION 89. Section 232.009, Family Code, is amended to read as follows:

Sec. 232.009. DEFAULT ORDER. The court or Title IV-D agency shall consider the allegations of the petition for suspension to be admitted and shall render an order suspending license if the individual [obligor] fails to:

- (1) respond to a notice issued under Section 232.006;
- (2) request a hearing; or
- (3) appear at a hearing.

SECTION 90. Subsections (a), (d), and (e), Section 232.011, Family Code, are amended to read as follows:

(a) On receipt of a final order suspending license, the licensing authority shall immediately determine if the authority has issued a license to the individual [obligor] named on the order and, if a license has been issued:

- (1) record the suspension of the license in the licensing authority's records;
- (2) report the suspension as appropriate; and
- (3) demand surrender of the suspended license if required by law for other cases in which a license is suspended.

(d) An individual [obligor] who is the subject of a final order suspending license is not entitled to a refund for any fee or deposit paid to the licensing authority.

(e) An individual [obligor] who continues to engage in the business, occupation, profession, or other licensed activity after the implementation of the order suspending license by the licensing authority is liable for the same civil and criminal penalties provided for engaging in the licensed activity without a license or while a license is suspended that apply to any other license holder of that licensing authority.

SECTION 91. Section 232.012, Family Code, is amended to read as follows:

Sec. 232.012. MOTION TO REVOKE STAY. (a) The obligee, support enforcement agency, court, or Title IV-D agency may file a motion to revoke the stay of an order suspending license if the individual who is subject of an order suspending license [obligor] does not comply with:

- (1) the terms of a reasonable repayment plan entered into by the individual; or
- (2) the requirements of a reissued subpoena [the obligor].

(b) Notice to the individual [obligor] of a motion to revoke stay under this section may be given by personal service or by mail to the address provided by the individual [obligor], if any, in the order suspending license. The notice must include a notice of hearing. The notice must be provided to the individual [obligor] not less than 10 days before the date of the hearing.

(c) A motion to revoke stay must allege the manner in which the individual [obligor] failed to comply with the repayment plan or the reissued subpoena.

(d) If the court or Title IV-D agency finds that the individual [obligor] is not in compliance with the terms of the repayment plan or reissued subpoena, the court or agency shall revoke the stay of the order suspending license and render a final order suspending license.

SECTION 92. Subsections (a) and (c), Section 232.013, Family Code, are amended to read as follows:

(a) The court or Title IV-D agency may render an order vacating or staying an order suspending license if the individual [obligor] has:

(1) paid all delinquent child support or has established a satisfactory payment record; or

(2) complied with the requirements of a reissued subpoena.

(c) On receipt of an order vacating or staying an order suspending license, the licensing authority shall promptly issue the affected license to the individual [obligor] if the individual [obligor] is otherwise qualified for the license.

SECTION 93. Section 232.014, Family Code, is amended to read as follows:

Sec. 232.014. FEE BY LICENSING AUTHORITY. A licensing authority may charge a fee to an individual [obligor] who is the subject of an order suspending license in an amount sufficient to recover the administrative costs incurred by the authority under this chapter.

SECTION 94. Subtitle D, Title 5, Family Code, is amended by adding Chapter 234 to read as follows:

CHAPTER 234. STATE CASE REGISTRY, DISBURSEMENT UNIT,
AND DIRECTORY OF NEW HIRES
SUBCHAPTER A. UNIFIED STATE CASE
REGISTRY AND DISBURSEMENT UNIT

Sec. 234.001. ESTABLISHMENT AND OPERATION OF UNIFIED REGISTRY AND DISBURSEMENT UNIT. The Title IV-D agency shall establish and operate a unified state case registry and state disbursement unit meeting the requirements of 42 U.S.C. Sections 654A(e) and 654B. The registry and unit shall:

(1) maintain records of child support orders in Title IV-D cases and in other cases in which a child support order has been established or modified in this state on or after October 1, 1998;

(2) receive, maintain, and furnish records of child support payments in Title IV-D cases and other cases as required by law;

(3) in a Title IV-D case, monitor support payments and initiate appropriate enforcement actions immediately on the occurrence of a delinquency in payment;

(4) distribute child support payments as required by law; and

(5) maintain custody of official child support payment records in the registry and disbursement unit.

Sec. 234.002. INTEGRATED SYSTEM FOR CHILD SUPPORT AND MEDICAL SUPPORT ENFORCEMENT. The statewide integrated system for child support and medical support enforcement under Chapter 231 shall be part of the unified state case registry and state disbursement unit authorized by this subchapter.

Sec. 234.003. WORK GROUP; COOPERATION REQUIRED. (a) The Title IV-D agency shall convene a work group to develop procedures for the establishment and operation of the unified state case registry and disbursement unit. The work group shall consist of representatives of the

judiciary, district clerks, domestic relations offices, and the bureau of vital statistics, as well as other county and state agencies, and other appropriate entities, identified by the Title IV-D agency. To the extent possible, the work group shall consolidate the reporting of information relating to court orders required of clerks of courts under this title.

(b) The Title IV-D agency shall, in cooperation with the work group established under this section, adopt rules and prescribe forms to implement this subchapter.

Sec. 234.004. CONTRACTS AND COOPERATIVE AGREEMENTS. The Title IV-D agency may enter into contracts and cooperative agreements as necessary to establish and operate the state case registry and state disbursement unit authorized under this subchapter.

Sec. 234.005. APPLICATION OF LAWS REQUIRING REPORTING TO REGISTRY. (a) The requirements in Sections 105.006(b) and 105.008(a) that certain information be provided to the state case registry do not apply until the registry is established under this subchapter.

(b) This section expires September 1, 1999.

[Sections 234.006-234.100 reserved for expansion]

SUBCHAPTER B. STATE DIRECTORY OF NEW HIRES

Sec. 234.101. DEFINITIONS. In this subchapter:

(1) "Employee" means an individual who is an employee within the meaning of Chapter 24 of the Internal Revenue Code of 1986 (26 U.S.C. Section 3401(c)). The term does not include an employee of a state agency performing intelligence or counterintelligence functions if the head of the agency has determined that reporting employee information under this subchapter could endanger the safety of the employee or compromise an ongoing investigation or intelligence activity.

(2) "Employer" has the meaning given that term by Section 3401(d) of the Internal Revenue Code of 1986 (26 U.S.C. Section 3401(d)) and includes a governmental entity and a labor organization, as that term is identified in Section 2(5) of the National Labor Relations Act (29 U.S.C. Section 152(5)), including an entity, also known as a "hiring hall," used by the labor organization and an employer to carry out requirements of an agreement between the organization and an employer described in Section 8(f)(3) of that Act (29 U.S.C. Section 158(f)(3)).

Sec. 234.102. In cooperation with the Texas Workforce Commission, the Title IV-D agency shall develop and operate a state directory to which employers in the state shall report each newly hired or rehired employee in accordance with the requirements of 42 U.S.C. Section 653a.

Sec. 234.103. The Title IV-D agency may enter into cooperative agreements and contracts as necessary to create and operate the directory authorized under this subchapter.

Sec. 234.104. The Title IV-D agency by rule shall establish procedures for reporting employee information and for operating a state directory of new hires meeting the requirements of federal law.

SECTION 95. Subdivision (4), Section 24.002, Business & Commerce Code, is amended to read as follows:

(4) "Creditor" means a person, including a spouse, minor, person entitled to receive court or administratively ordered child support for the benefit of a child, or ward, who has a claim.

SECTION 96. Article 3.96-8, Insurance Code, is amended to read as follows:

Art. 3.96-8. SERVICE AREA RESTRICTIONS PROHIBITED. (a) An insurer shall provide coverage for a covered child who resides outside the insurer's service area, and whose coverage under a policy or plan is required by a medical support order, that is comparable coverage to that provided to other dependents under the policy or plan. In this subsection, "comparable coverage" may include coverage under which an insurer uses different procedures for service delivery and health care provider reimbursement. The coverage may not be limited to emergency services only. The coverage may not include coverage for which the insurer charges a higher premium.

(b) An insurer may not enforce otherwise applicable provisions that would deny, limit, or reduce payment for claims for a covered child who lives outside the insurer's coverage territory but inside the United States.

(c) The commissioner shall adopt rules to define "comparable coverage" in a manner consistent with federal law and that meet requirements to maintain federal Medicaid funding.

SECTION 97. (a) Sections 157.065(d), 157.322(c) through (e), 158.107, 158.305, 231.004, 231.430, and 231.431, Family Code, are repealed.

(b) Section 231.304, Family Code, is repealed on October 1, 1998.

SECTION 98. (a) This Act takes effect September 1, 1997.

(b) The change in law made by this Act does not affect a proceeding under the Family Code pending on the effective date of this Act. A proceeding pending on the effective date of this Act is governed by the law in effect at the time the proceeding was commenced, and the former law is continued in effect for that purpose.

(c) The enactment of this Act does not by itself constitute a material and substantial change of circumstances sufficient to warrant modification of a court order or portion of a decree that provides for the support of or possession of or access to a child entered before the effective date of this Act.

(d) The requirement that an employer report a newly hired or rehired employee to the state directory of new hires under Subchapter B, Chapter 234, Family Code, as added by this Act, takes effect October 1, 1998.

(e) The commissioner of insurance shall adopt rules under Article 3.96-8(c), Insurance Code, as added by this Act, not later than January 1, 1998.

(f) The change in law made by this Act to Article 3.96-8, Insurance Code, applies only to administratively ordered or court ordered coverage for a dependent child under an insurance policy or evidence of coverage that is delivered, issued for delivery, or renewed on or after January 1, 1998. Administratively ordered or court ordered coverage under a policy or evidence of coverage that is delivered, issued for delivery, or renewed before January 1, 1998, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 99. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an

imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE BILL 735 WITH HOUSE AMENDMENT

Senator West called **SB 735** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 735** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the oversight of rail fixed guideway system safety.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 455, Transportation Code, is amended by adding Section 455.005 to read as follows:

Sec. 455.005. RAIL FIXED GUIDEWAY MASS TRANSPORTATION SYSTEM SAFETY OVERSIGHT. (a) The department shall:

(1) oversee safety and security practices of rail fixed guideway mass transportation systems in compliance with 49 U.S.C. Section 5330;

(2) establish a safety program for each entity operating a rail fixed guideway mass transportation system within the state that provides:

(A) safety requirements that:

(i) at a minimum comply with the American Public Transit Association's guidelines published in the "Manual for the Development of Rail Transit System Safety Program Plan;" and

(ii) include standards for the personal security of passengers and employees of rail fixed guideway systems;

(B) lines of authority;

(C) levels of responsibility and accountability; and

(D) methods of documentation for the system;

(3) at least every three years conduct an on-site safety review of each entity's system safety program plan and prepare and issue a report containing findings and recommendations resulting from that review that, at a minimum, include an analysis of the efficacy of the system safety program plan and a determination of whether it should be updated;

(4) review and approve the annual internal safety audit conducted by an entity that operates a system;

(5) establish procedures for the investigation of accidents and unacceptable hazardous conditions;

(6) investigate accidents and unacceptable hazardous conditions at entities operating systems unless the National Transportation Safety Board has investigated or will investigate an accident;

(7) require, review, and approve any plan of an entity operating a system to minimize, control, correct, or eliminate any investigated accident or hazard; and

(8) submit reports or other information required by the United States Department of Transportation.

(b) The department may use a contractor to act on its behalf in carrying out the duties of the department under this section.

(c) The data collected and the report of any investigation conducted by the department or a contractor acting on behalf of the department:

(1) is confidential and subject to disclosure, inspection, or copying under Chapter 552, Government Code; but

(2) may not be admitted in evidence or used for any purpose in any action or proceeding arising out of any matter referred to in an investigation except in an action or a proceeding instituted by the state.

(d) Each entity operating a system shall:

(1) develop a system safety program plan that complies with the department's safety program plan standards;

(2) conduct an annual internal safety audit and submit the audit report to the department;

(3) report accidents and unacceptable hazardous conditions to the department in writing or by electronic means acceptable to the department;

(4) minimize, control, correct, or eliminate any investigated unacceptable hazardous condition as required by the department; and

(5) provide all necessary assistance to allow the department to conduct appropriate on-site investigations of accidents and unacceptable hazardous conditions.

(e) Any part of a system safety program plan that concerns security for the system:

(1) is confidential and not subject to disclosure, inspection, or copying under Chapter 552, Government Code; and

(2) may not be admitted in evidence or used for any purpose in any action or proceeding arising out of any matter referred to in an investigation except in an action or a proceeding instituted by the state.

(f) The commission shall adopt rules to implement this section.

(g) Notwithstanding any other provision of law to the contrary, the commission, the department, or an officer, employee, or agent of the commission or department is not liable for any act or omission in the implementation of this section.

(h) In this section:

(1) "Accident" means:

(A) any event involving the revenue service operation of a rail fixed guideway system as a result of which an individual:

(i) dies; or

(ii) suffers bodily injury and immediately receives medical treatment away from the scene of the event; or

(B) a collision, derailment, or fire that causes property damage in excess of \$100,000.

(2) "Commission" means the Texas Transportation Commission.

(3) "Department" means the Texas Department of Transportation.

(4) "Hazardous condition" means a condition that may endanger human life or property, including an unacceptable hazardous condition.

(5) "Investigation" means a process to determine the probable cause of an accident or an unacceptable hazardous condition. The term includes a review and approval of the transit agency's determination of the probable cause of an accident or unacceptable hazardous condition.

(6) "Rail fixed guideway mass transportation system" or "system" means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway used for mass transportation that is included in the United States government's computation of fixed guideway route miles or receives funding for urbanized areas under 49 U.S.C. Section 5336 and is not regulated by the United States government.

(7) "Safety" means freedom from danger.

(8) "Security" means freedom from intentional danger.

(9) "Unacceptable hazardous condition" means a hazardous condition determined to be unacceptable using the American Public Transit Association's guidelines' hazard resolution matrix.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three separate days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator West moved to concur in the House amendment to SB 735.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

SENATE BILL 820 WITH HOUSE AMENDMENT

Senator West called SB 820 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend SB 820 as follows:

(1) On page 1, line 11, insert after "marketplace", "to the extent feasible".

(2) On page 2, line 8, strike "shall" substitute "may".

On page 1, lines 19-20, strike "The marketplace may include databases that contain information about the availability of surplus property." substitute "The marketplace may contain:

(3) (1) information relevant to the state's standard procurement specifications for goods and services.

(2) information about vendors, including information from the centralized master bidders list and vendor performance information;

(3) information about products, including product testing results;

(4) historical purchasing information, qualified purchase lists, and trends; and

(5) information about the availability of surplus property."

(4) On page 2, line 11-16, strike "The commission may adopt rules, prescribe forms, and require information from state agencies to administer this section, Sec. 2177.002 ELECTRONIC PROCUREMENT DATABASE.

(a) The commission may maintain in an electronic procurement database information related to state procurement that the commission considers to be useful."

(5) On page 2, line 16, strike "database" substitute "marketplace".

(6) On page 3, line 1, strike "(b)" substitute "(g)".

(7) On page 3, line 2, strike "database" substitute "marketplace".

(8) On page 3, line 3, strike "2177.003" substitute "2177.002".

The amendment was read.

On motion of Senator West, the Senate concurred in the House amendment to SB 820 by a viva voce vote.

SENATE BILL 557 WITH HOUSE AMENDMENT

Senator Armbrister called SB 557 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend SB 557 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to issuance of exempt license plates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 502.201, Transportation Code, is amended by amending Subsections (d) and (f) and adding Subsection (g) to read as follows:

(d) The department ~~shall~~ may provide by rule for the issuance of specially designated license plates for vehicles that are exempt by law. Except as provided by Subsection (g), the license plates must bear the word "exempt."

(f) A person who operates on a public highway a vehicle after the registration ~~license~~ has been revoked is liable for the penalties for failing to register a vehicle.

(g) The department shall provide by rule for the issuance of regularly designed license plates not bearing the word "exempt" for a vehicle that is exempt by law and that is:

(1) a law enforcement vehicle, if the agency certifies to the department that the vehicle will be dedicated to law enforcement activities;

(2) a vehicle exempt from inscription requirements under a rule adopted as provided by Section 721.003; or

(3) a vehicle exempt from inscription requirements under an order or ordinance adopted by a governing body of a municipality or commissioners court of a county as provided by Section 721.005, if the applicant presents a copy of the order or ordinance.

SECTION 2. Subchapter E, Chapter 502, Transportation Code, is amended by adding Section 502.2015 to read as follows:

Sec. 502.2015. LIMITATION ON ISSUANCE OF EXEMPT LICENSE PLATES; SEIZURE OF CERTAIN VEHICLES. (a) The department may not issue exempt license plates for a vehicle owned by the United States, this state, or a political subdivision of this state unless when application is made for registration of the vehicle, the person who under Section 502.202 has authority to certify to the department that the vehicle qualifies for registration under that section also certifies in writing to the department that there is printed on each side of the vehicle, in letters that are at least two inches high or in an emblem that is at least 100 square inches in size, the name of the agency, department, bureau, board, commission, or officer of the United States, this state, or the political subdivision of this state that has custody of the vehicle. The letters or emblem must be of a color sufficiently different from the body of the vehicle to be clearly legible from a distance of 100 feet.

(b) The department may not issue exempt license plates for a vehicle owned by a person other than the United States, this state, or a political subdivision of this state unless, when application is made for registration of the vehicle, the person who under Section 502.202 has authority to certify to the department that the vehicle qualifies for registration under that section also certifies in writing to the department that the name of the owner of the vehicle is printed on the vehicle in the manner prescribed by Subsection (a).

(c) A peace officer listed in Article 2.12, Code of Criminal Procedure, may seize a motor vehicle displaying exempt license plates if the vehicle is:

(1) operated on a public highway; and

(2) not identified in the manner prescribed by Subsection (a) or (b), unless the vehicle is covered by Subsection (f).

(d) A peace officer who seizes a motor vehicle under Subsection (c) may require that the vehicle be:

(1) moved to the nearest place of safety off the main-traveled part of the highway; or

(2) removed and placed in the nearest vehicle storage facility designated or maintained by the law enforcement agency that employs the peace officer.

(e) To obtain the release of the vehicle, in addition to any other requirement of law, the owner of a vehicle seized under Subsection (c) must:

(1) remedy the defect by identifying the vehicle as required by Subsection (a) or (b); or

(2) agree in writing with the law enforcement agency to provide evidence to that agency, before the 10th day after the date the vehicle is released, that the defect has been remedied by identifying the vehicle as required by Subsection (a) or (b).

(f) Subsections (a) and (b) do not apply to a vehicle to which Section 502.201(g) or 502.206 applies.

(g) For purposes of this section, an exempt license plate is a license plate issued by the department that is plainly marked with the word "exempt."

SECTION 3. (a) In addition to the new changes in law made by this Act, this Act conforms the Transportation Code to the changes in law made by Chapter 453, Acts of the 74th Legislature, Regular Session, 1995.

(b) Chapter 453, Acts of the 74th Legislature, Regular Session, 1995, is repealed.

(c) To the extent of any conflict, this Act prevails over another Act of the 75th Legislature, Regular Session, 1997, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 4. This Act takes effect September 1, 1997.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Armbrister, the Senate concurred in the House amendment to **SB 557** by a viva voce vote.

SENATE BILL 1756 WITH HOUSE AMENDMENT

Senator Fraser called **SB 1756** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1756** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to an exemption from regulation under the Private Investigators and Private Security Agencies Act for certain nonprofit medical alert service providers, persons obtaining public records, and persons obtaining certain documents for use in litigation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3(a), Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) This Act does not apply to:

(1) a person employed exclusively and regularly by one employer in connection with the affairs of an employer only and where there exists an employer-employee relationship; provided, however, any person who shall carry a firearm in the course of his employment shall be required to obtain a private security officer commission under the provisions of this Act;

(2) except as provided by Subsection (d) of this Section, an officer or employee of the United States of America, or of this State or political subdivision of either, while the employee or officer is engaged in the performance of official duties;

(3) a person who has full-time employment as a peace officer, who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, or watchman if the officer:

(A) is employed in an employee-employer relationship or employed on an individual contractual basis;

(B) is not in the employ of another peace officer;

(C) is not a reserve peace officer; and

(D) works as a peace officer on the average of at least 32 hours a week, is compensated by the state or a political subdivision of the state at the rate of the minimum wage or higher, and is entitled to all employee benefits offered to a peace officer by the state or political subdivision;

(4) a person engaged exclusively in the business of obtaining and furnishing information for purposes of credit worthiness or collecting debts or ascertaining the financial responsibility of applicants for property insurance and for indemnity or surety bonds, with respect to persons, firms, and corporations;

(5) an attorney-at-law in performing his duties;

(6) admitted insurers, insurance adjusters, agents, and insurance brokers licensed by the State, performing duties in connection with insurance transacted by them;

(7) a person who engages exclusively in the business of repossessing property that is secured by a mortgage or other security interest;

(8) a locksmith who does not install or service detection devices, does not conduct investigations, and is not a security service contractor;

(9) a person who owns and installs burglar detection or alarm devices on his own property or, if he does not charge for the device or its installation, installs it for the protection of his personal property located on another's property, and does not install the devices as a normal business practice on the property of another;

(10) an employee of a cattle association who is engaged in inspection of brands of livestock under the authority granted to that cattle association by the Packers and Stockyards Division of the United States Department of Agriculture;

(11) a ~~[the provisions of this Act shall not apply to]~~ common carrier ~~[carriers]~~ by rail engaged in interstate commerce and regulated by state and federal authorities and transporting commodities essential to the national defense and to the general welfare and safety of the community;

(12) a registered professional engineer practicing in accordance with the provisions of the Texas Engineering Practice Act that does not install or service detection devices, does not conduct nonengineering investigations, is performing forensic engineering studies, and is not a security services contractor;

(13) a person whose sale of burglar alarm signal devices, burglary alarms, television cameras, still cameras, or other electrical, mechanical, or electronic devices used for preventing or detecting burglary, theft, shoplifting, pilferage, or other losses is exclusively over-the-counter or by mail order;

(14) a person who holds a license or other form of permission issued by an incorporated city or town to practice as an electrician and who installs fire or smoke detectors in no building other than a single family or multifamily residence;

(15) a person or organization in the business of building construction that installs electrical wiring and devices that may include in part the installation of a burglar alarm or detection device if:

(A) the person or organization is a party to a contract that provides that the installation will be performed under the direct supervision of and inspected and certified by a person or organization licensed to install and certify such an alarm or detection device and that the licensee assumes full responsibility for the installation of the alarm or detection device; and

(B) the person or organization does not service or maintain burglar alarms or detection devices;

(16) a reserve peace officer while the reserve officer is performing guard, patrolman, or watchman duties for a county and is being compensated solely by that county;

(17) response to a burglar alarm or detection device by a law enforcement agency or by a law enforcement officer acting in an official capacity;

(18) a person who, by education, experience, or background has specialized expertise or knowledge such as that which would qualify or tend to qualify such person as an expert witness, authorized to render opinions in proceedings conducted in a court, administrative agency, or governing body of this state or of the United States, in accordance with applicable rules and regulations and who does not perform any other service for which a license is required by provisions of this Act;

(19) an officer, employee, or agent of a common carrier, as defined by Section 153(10) [153(h)], Communications Act of 1934 (47 U.S.C.A. Sec. 151 et seq.), while protecting the carrier or a user of the carrier's long-distance services from a fraudulent, unlawful, or abusive use of those long-distance services;

(20) a person who sells or installs automobile burglar alarm devices and that does not perform any other act that requires a license under this Act;

(21) a manufacturer, or a manufacturer's authorized distributor, who sells to the holder of a license under this Act equipment used in the operations for which the holder is required to be licensed;

(22) a person employed as a noncommissioned security officer by a political subdivision of this state;

(23) a person whose activities are regulated under Article 5.43-2, Insurance Code, except to the extent that those activities are specifically regulated under this Act;

(24) a landman performing activities in the course and scope of the landman's business;

(25) a hospital or a wholly owned subsidiary or affiliate of a hospital that provides medical alert services for persons who are sick or disabled, if the hospital, subsidiary, or affiliate is licensed under Chapter 241, Health and Safety Code, and the hospital does not perform any other service that requires a license under this Act;

(26) a charitable, nonprofit organization that provides medical alert services for persons who are sick or disabled, if the organization:

(A) is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986;

(B) has its monitoring services provided by a licensed person, licensed nurse, licensed physician assistant, or hospital or a wholly owned subsidiary or affiliate of a hospital licensed under Chapter 241, Health and Safety Code; and

(C) does not perform any other service that requires a license under this Act;

(27) a person engaged in the business of electronic monitoring of a person as a condition of that person's probation, parole, mandatory supervision, or release on bail, if the person does not perform any other service that requires a license under this Act;

(28) a nonprofit business or civic organization that:

(A) employs one or more peace officers meeting the qualifications of Subdivision (3) of this subsection as patrolmen, guards, or watchmen;

(B) provides the services of these peace officers only to:

(i) its members; or

(ii) if the organization does not have members, the members of the communities served by the organization as described in its articles of incorporation or other organizational documents;

(C) devotes the net receipts from all charges for the services exclusively to the cost of providing the services or to the costs of other services for the enhancement of the security or safety of:

(i) its members; or

(ii) if the organization does not have members, the members of the communities served by the organization as described in its articles of incorporation or other organizational documents; and

(D) does not perform any other service that requires a license under this Act;

(29) a charitable, nonprofit organization that maintains a system of records to aid in the location of missing children if the organization:

(A) is exempt from federal taxation under Section 501(c)(3), Internal Revenue Code of 1986, and its subsequent amendments;

(B) exclusively provides services related to locating missing children; and

(C) does not perform any other service that requires a license under this Act; [or]

(30) a person engaged in the business of psychological testing or other testing and interviewing services (to include but not limited to attitudes, honesty, intelligence, personality, and skills) for preemployment purposes, if the person does not perform any other service that requires a license under this Act;

(31) a person who does not perform any other act that requires a license under this Act, and who is engaged in obtaining information classified as a public record under Chapter 552, Government Code, regardless of whether for compensation, unless the person is a full-time employee, as defined by Section 61.001, Labor Code, of a person licensed under this Act; or

(32) a person who obtains a document for use in litigation under an authorization or subpoena issued for a written or oral deposition.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

On motion of Senator Fraser, the Senate concurred in the House amendment to **SB 1756** by a viva voce vote.

SENATE BILL 663 WITH HOUSE AMENDMENTS

Senator Whitmire called **SB 663** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 663** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the authority of a judge to place a defendant convicted of a state jail felony on community supervision, to the supervision of those defendants, and to the facilities in which those defendants may be confined.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (a) and (g), Section 15, Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(a) On conviction of a state jail felony punished under Section 12.35(a), Penal Code, the judge ~~[shall suspend the imposition of the sentence of confinement and place the defendant on community supervision, unless the defendant has been previously convicted of a felony, in which event the judge]~~ may suspend the imposition of the sentence and place the defendant on community supervision or may order the sentence to be executed. The judge may suspend in whole or in part the imposition of any fine imposed on conviction.

(g) The facility director of a state jail felony facility shall report to a judge who orders a defendant confined in the facility as a condition of community supervision not less than every 90 days on the defendant's programmatic progress, conduct, and conformity to the rules of the facility.

SECTION 2. Subdivision (2), Subsection (f), Section 15, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(2) The court retains jurisdiction over the defendant for the period during which the defendant is confined in ~~[until the first anniversary of the date the defendant is received into the custody of]~~ a state jail. At any time after the 75th day after the date the defendant is received into the custody of a state jail, the judge on the judge's own motion, on the motion of the attorney representing the state, or on the motion of the defendant may suspend further execution of the sentence and place the defendant on community supervision under the conditions of this section.

SECTION 3. Subdivisions (1) and (2), Subsection (h), Section 15, Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(1) A defendant confined in a state jail felony facility ~~[after revocation of community supervision]~~ does not earn good conduct time for time served in the facility.

(2) A judge may credit against any time a defendant is ~~[subsequently]~~ required to serve in a state jail felony facility ~~[after revocation of community supervision]~~ time served by the defendant in county jail from the time of the defendant's arrest and confinement until sentencing by the trial court.

SECTION 4. Section 507.006, Government Code, is amended to read as follows:

Sec. 507.006. USE OF FACILITY FOR OTHER ~~[TRANSFER]~~ INMATES. (a) Notwithstanding any other provision of this subchapter, the state jail division, with the approval of the board, may designate one or more state jail felony facilities or discrete areas within one or more state jail felony facilities to treat [house] inmates who are eligible for confinement in a substance abuse felony punishment facility under Section 493.009 or to house inmates who are eligible for confinement in a transfer facility under Section 499.152, but only if the designation does not deny placement in a state jail felony facility of defendants required to serve terms of confinement in a facility following conviction of state jail felonies. The division may not house in a state jail felony facility an inmate who:

(1) has a history of or has shown a pattern of violent or assaultive behavior in county jail or a facility operated by the department; or

(2) will increase the likelihood of harm to the public if housed in the facility.

(b) Sections 499.154 and 499.155 apply to an inmate eligible for confinement in a transfer facility under Section 499.152 who is nonetheless confined in a state jail felony facility in the same manner as if the inmate were confined in a transfer facility.

(c) The responsibility of the department to provide substance abuse felony punishment facilities is governed by the General Appropriations Act

and Section 493.009. This section does not affect the responsibility of the department to provide substance abuse felony punishment facilities.

SECTION 5. (a) The changes in law made by this Act to Subsections (a), (f)(2), and (h)(1), Section 15, Article 42.12, Code of Criminal Procedure, apply only to a defendant convicted of an offense committed on or after the effective date of this Act. The changes in law made by this Act to Subsections (g) and (h)(2), Section 15, Article 42.12, Code of Criminal Procedure, apply to a defendant convicted of an offense regardless of whether the defendant committed the offense before, on, or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) For purposes of Subsections (a), (f)(2), and (h)(1), Section 15, Article 42.12, Code of Criminal Procedure, as amended by this Act, a defendant convicted of an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 1997.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1

Amend CSSB 663 as follows:

(1) Add an appropriately numbered SECTION to read as follows and renumber existing SECTIONS accordingly:

SECTION __. Section 15(e), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(e) If a defendant violates a condition of community supervision imposed on the defendant under this article and after a hearing under Section 21 of this article the judge modifies the defendant's community supervision, the judge may impose any sanction permitted by Section 22 of this article, except that if the judge requires [may not require] a defendant to serve a period of confinement in a state jail felony facility as a modification of the defendant's community supervision, the minimum term of confinement is 90 days and the maximum term of confinement is 180 days.

(2) In proposed SECTION 5(a) of the bill (house committee printing, page 3, line 25), between "(a)," and "(f)(2)", insert "(e),".

Floor Amendment No. 1 on Third Reading

Amend CSSB 663 on third reading, in SECTION 1 of the bill, by striking amended Subsection (g), Section 15, Article 42.12, Code of Criminal Procedure, and substituting the following:

(g) The facility director of a state jail felony facility shall report to a judge who orders a defendant confined in the facility as a condition of community supervision or a sanction imposed as a modification of

community supervision under Subsection (e) not less than every 90 days on the defendant's programmatic progress, conduct, and conformity to the rules of the facility.

The amendments were read.

On motion of Senator Whitmire, the Senate concurred in the House amendments to **SB 663** by a viva voce vote.

SENATE BILL 851 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 851, Relating to including a multiracial classification on all forms requesting information on racial identification and providing for reporting racial information to federal agencies.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 851 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 851** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

SB 851 was read third time and was passed by a viva voce vote.

HOUSE BILL 344 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 344, Relating to registration and insurance requirements for certain vehicles.

The bill was read second time.

Senator Carona offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 344** by adding a new section to the bill, appropriately numbered, to read as follows and renumbering subsequent sections of the bill accordingly:

SECTION ____ . Subchapter F, Chapter 502, Transportation Code, is amended by adding Section 502.294 to read as follows:

Sec. 502.294. TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE LICENSE PLATES. (a) The department shall issue specially designed Texas Commission on Alcohol and Drug Abuse license plates for passenger cars and light trucks.

(b) The department shall design the license plates in consultation with the Boy Scouts of America.

(c) The department shall issue license plates under this section to a person who:

(1) applies to the county assessor-collector of the county in which the person resides on a form provided by the department; and

(2) pays an annual fee of \$30, in addition to the fee prescribed by Section 502.161, and, if personalized prestige license plates are issued, in addition to the fee prescribed by Section 502.251.

(d) Of each fee collected under this section, the department shall deposit \$20 to the credit of the general revenue fund and \$10 to the credit of the state highway fund.

(e) Money deposited to the credit of the general revenue fund under Subsection (d) may be appropriated only to the Texas Commission on Alcohol and Drug Abuse for drug abuse prevention programs provided by nonprofit organizations that primarily serve children. In selecting a program provider under this subsection, it is the intent of the legislature that to the extent permissible, a preference be given to a provider whose membership substantially consists of persons who purchase the specially designed license plates under this section.

(f) If the owner of a vehicle registered under this section disposes of the vehicle during the registration year, the owner shall return the special license plates to the department.

The committee amendment was read and was adopted by a viva voce vote.

HB 344 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 344 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that HB 344 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

HB 344 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1029 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1029, Relating to the creation of municipal development districts; authorizing the imposition of certain local taxes and the issuance of local bonds.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1029 ON THIRD READING

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1029** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

HB 1029 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1401 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

CSHB 1401, Relating to the regulation of automotive wrecking and salvage yards in certain counties; providing a penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1401 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1401** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

CSHB 1401 was read third time and was passed by a viva voce vote.

SENATE BILL 1689 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1689, Relating to certain counties establishing alternative dispute resolution systems for students.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1689 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1689** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

SB 1689 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATE BILL 1497 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1497, Relating to the special account to fund the Texas Real Estate Research Center.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1497 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1497** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

SB 1497 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(Senator Wentworth in Chair)

**MOTION TO PLACE
HOUSE BILL 762 ON SECOND READING**

Senator Bivins asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

HB 762, Relating to offenses involving the preparation, sale, or distribution of certain academic materials for profit.

There was objection.

Senator Bivins then moved to suspend the regular order of business and take up **HB 762** for consideration at this time.

The motion was lost by the following vote: Yeas 17, Nays 12. (Not receiving two-thirds vote of Members present)

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Ellis, Fraser, Galloway, Haywood, Lindsay, Lucio, Luna, Ogden, Patterson, Sibley, Wentworth.

Nays: Gallegos, Harris, Madla, Moncrief, Nelson, Nixon, Shapiro, Shapleigh, Truan, West, Whitmire, Zaffirini.

Absent: Ratliff.

Absent-excused: Duncan.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2335 ON SECOND READING**

Senator Harris asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

CSHB 2335, Relating to certain crime control and prevention districts.

There was objection.

Senator Harris then moved to suspend the regular order of business and take up **CSHB 2335** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Armbrister, Barrientos, Brown, Cain, Carona, Ellis, Fraser, Gallegos, Harris, Lindsay, Lucio, Luna, Madla, Moncrief, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Galloway, Haywood, Nelson, Truan.

Absent: Sibley.

Absent-excused: Duncan.

CSHB 2335 was read second time.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2335** by striking all below the enacting clause and by substituting the following:

SECTION 1. Section 1.05A, Crime Control and Prevention District Act (Article 2370c-4, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.05A. CREATION OF DISTRICT BY CERTAIN MUNICIPALITIES. A municipality that is partially or wholly located in a county with a population of more than 5,000 [~~1-million~~] may create a crime control district in its jurisdiction in the same manner as a county under this Act. A crime control district created by a municipality under this section has the same relationship with the municipality as a crime control district created by a [~~the~~] county under this Act has with the county. A municipality creating a district under this section shall pay the entire cost of creating the district but may be reimbursed for its costs under Section 3.10(d) of this Act.

SECTION 2. Section 3.03(b), Crime Control and Prevention District Act (Article 2370c-4, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The proposed rate for the district sales and use tax imposed under Subchapter B, Chapter 323, Tax Code, may be only:

- (1) one-eighth of one percent;
- (2) one-fourth of one percent;
- (3) three-eighths of one percent; or
- (4) [~~2~~] one-half of one percent.

SECTION 3. Section 4.01, Crime Control and Prevention District Act (Article 2370c-4, Vernon's Texas Civil Statutes), is amended by adding Subsections (c) and (d) to read as follows:

(c) The governing body of a municipality or county by resolution may appoint the governing body's membership as the board of directors of the district, if the appointment is approved by the voters in a creation election or continuation referendum under this Act. A member of a governing body appointed under this section as a member of the district's board of directors serves a term concurrent with the member's term as a member of the governing body.

(d) In a district for which the governing body of the municipality or county does not serve as the district's board of directors, the governing body may create a board of directors for which one director is appointed by each member of the governing body to serve at the pleasure of that member for a term that is concurrent with the term of the member of the governing body that appointed the director.

SECTION 4. Section 8.01, Crime Control and Prevention District Act (Article 2370c-4, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

(d) In a county with a population of one million or more, the board or commissioners court may specify the number of years for which the district should be continued. The governing body of a municipality with a population of 75,000 or less that creates a district under Section 1.05A of this Act may specify the number of years for which the district should be continued. The board, commissioners court, or governing body of a municipality may continue a district only for 5, 10, 15, or 20 years. For a continuation referendum under this subsection, the ballot shall be printed to permit voting for or against the proposition: "Whether the _____ Crime Control and Prevention District should be continued for _____ years and the crime control and prevention district sales and use tax should be continued for _____ years."

SECTION 5. Section 10.01, Crime Control and Prevention District Act (Article 2370c-4, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A district is dissolved five years after the date the district began to levy taxes for district purposes [was created] if the district has not held a continuation or dissolution referendum.

(c) Subsection (b) of this section does not apply to a district that is continued under Section 8.01(d) of this Act, and that district is dissolved on the expiration of the period for which it was continued.

SECTION 6. Section 323.105, Tax Code, is amended to read as follows:

Sec. 323.105. CRIME CONTROL DISTRICT TAX. (a) Subject to an election held in accordance with the Crime Control and Prevention District Act, a county in which a crime control and prevention district is established shall adopt a sales and use tax in the area of the district for the purpose of financing the operation of the crime control and prevention district. The revenue from the tax may be used only for the purpose of financing the operation of the crime control and prevention district. The proposition for adopting a tax under this section and the proposition for creation of a crime

control and prevention district shall be submitted at the same election. For purposes of Subsection (c) of Section 323.101 of this code, a tax under this section is not a county sales and use tax.

(b) A tax adopted for a district under this section for financing the operation of the district may be decreased in increments of one-eighth [~~one-fourth~~] of one percent by order of the board of directors of the district.

(c) The board of directors or the governing body of the governmental entity that proposed the creation of the crime control and prevention district may call an election on the question of decreasing the tax rate in increments of one-eighth of one percent in the district if the district was created before January 1, 1996. The board of directors or governing body may dedicate a portion of the tax for the payment of bonds used in conjunction with the renovation or extension of a county-owned or municipally owned convention center facility, as defined in Section 351.001, that was constructed before 1969 if the dedication is approved by a majority of the qualified voters in an election held in the district on the question of decreasing the tax rate. At the election, the ballot shall be printed to provide for voting for or against the following proposition: "The decrease of the _____ Crime Control and Prevention District sales and use tax to _____ percent and authorizing the use of _____ of one percent for the payment of bonds issued for the renovation or extension of certain county-owned or municipally owned convention center facilities as that term is defined under Section 351.001, Tax Code, and authorizing that the tax expire on payment of the bonds."

(d) The rate of a tax adopted for a district under this section may be increased in increments of one-eighth [~~one-fourth~~] of one percent, not to exceed a total tax rate of one-half percent for financing the operation of the crime control and prevention district, by order of the board of directors of the crime control and prevention district if approved by a majority of the qualified voters voting at an election called by the board and held in the district on the question of increasing the tax rate. At the election, the ballot shall be printed to provide for voting for or against the following proposition: "The increase of the _____ [~~County~~] Crime Control and Prevention District sales and use tax rate to _____ percent." If there is an increase or decrease under this subsection in the rate of a tax imposed under this section, the new rate takes effect on the first day of the next calendar quarter [~~year~~] after the expiration of one calendar quarter after the comptroller receives notice of the increase or decrease. However, if the comptroller notifies the president of the board of directors of the district in writing within 10 days after receipt of the notification that the comptroller requires more time to implement reporting and collection procedures, the comptroller may delay implementation of the rate change for one whole calendar quarter. In that event, the new rate takes effect on the first day of the next calendar quarter following the elapsed quarter.

(e) [~~(c)~~] The comptroller shall remit to the county amounts collected at the rate imposed under this section as part of the regular allocation of county tax revenue collected by the comptroller. The county shall, if the district is composed of an area less than the entire county, remit that amount to the district. Retailers may not be required to use the allocation and reporting

procedures in the collection of taxes under this section different from the procedures that retailers use in the collection of other sales and use taxes under this chapter. An item, transaction, or service that is taxable in a county under a sales or use tax authorized by another section of this chapter is taxable under this section. An item, transaction, or service that is not taxable in a county under a sales or use tax authorized by another section of this chapter is not taxable under this section.

(f) [(d)] If, in a county where a crime control and prevention district is composed of the whole county, a county sales and use tax or a county sales and use tax rate increase for the purpose of financing a crime control and prevention district is approved, the county is responsible for distributing to the district that portion of the county sales and use tax revenue received from the comptroller that is to be used for the purposes of financing the crime control and prevention district. Not later than the 10th day after the date the county receives funds under this section from the comptroller, the county shall make the distribution in the proportion that the crime control and prevention portion of the tax rate bears to the total sales and use tax rate of the county. The amounts distributed to a crime control and prevention district are not considered to be sales and use tax revenue for the purpose of property tax reduction and computation of the county tax rate under Section 26.041, Tax Code.

(g) [(e)] For purposes of the tax imposed under this section, a reference in this chapter to the county as the territory in which the tax or an incident of the tax applies means only the territory located in the crime control and prevention district, if that district is composed of an area less than an entire county.

(h) [(f)] The comptroller may adopt rules and the county commissioners court may adopt orders to administer this section.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 1.

CSHB 2335 as amended was passed to third reading by the following vote: Yeas 27, Nays 3.

Yeas: Armbrister, Barrientos, Brown, Cain, Carona, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Nelson, Truan.

Absent-excused: Duncan.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2335 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2335** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 4.

Yeas: Armbrister, Brown, Cain, Carona, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Bivins, Nelson, Truan.

Absent-excused: Duncan.

CSHB 2335 was read third time and was passed by the following vote: Yeas 26, Nays 4. (Same as previous roll call)

HOUSE BILL 1610 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1610, Relating to a requirement of filing of a release of a judgment lien for ad valorem taxes on payment of the amount of the judgment.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1610 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1610** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

HB 1610 was read third time and was passed by a viva voce vote.

HOUSE BILL 1540 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1540, Relating to the sheriff's department civil service system in certain counties.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1540 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1540** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

HB 1540 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 3565 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 3565, Relating to the duties of the district clerk of Nueces County.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 3565 ON THIRD READING

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3565** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

HB 3565 was read third time and was passed by a viva voce vote.

(President in Chair)

HOUSE BILL 574 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 574, Relating to the fiscal administration of the San Patricio County Navigation District No. 1.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 574 ON THIRD READING

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 574** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

HB 574 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1133 ON SECOND READING**

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

CSHB 1133, Relating to certain reporting requirements for the Texas Natural Resource Conservation Commission.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1133 ON THIRD READING**

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1133** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

CSHB 1133 was read third time and was passed by a viva voce vote.

HOUSE BILL 966 ON SECOND READING

Senator Barrientos moved to suspend the regular order of business to take up for consideration at this time:

HB 966, Relating to water safety; providing penalties.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

HB 966 was read second time.

Senator Luna offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 966** by deleting SECTION 5 of the bill amending Section 31.092, Parks and Wildlife Code and renumbering subsequent sections.

The amendment was read.

On motion of Senator Barrientos and by unanimous consent, further consideration of **HB 966** was postponed to a time certain of 11:00 a.m. today.

Question—Shall Floor Amendment No. 1 to **HB 966** be adopted?

VOTE RECONSIDERED

On motion of Senator Nixon and by unanimous consent, the vote by which the regular order of business failed to be suspended for **HB 762** was reconsidered.

Question—Shall the regular order of business be suspended for **HB 762**?

HOUSE BILL 762 ON SECOND READING

Senator Bivins again asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

HB 762, Relating to offenses involving the preparation, sale, or distribution of certain academic materials for profit.

There was objection.

Senator Bivins then moved to suspend the regular order of business and take up **HB 762** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 7.

Yeas: Armbrister, Barrientos, Bivins, Brown, Carona, Ellis, Fraser, Galloway, Haywood, Lindsay, Madla, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Zaffirini.

Nays: Gallegos, Harris, Lucio, Moncrief, Nelson, Truan, Whitmire.

Absent: Cain, Luna.

Absent-excused: Duncan.

HB 762 was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 762**, SECTION 1, Section 32.49(g), line 59, by deleting the letter "**B**" between the words "Class" and "misdemeanor" and substitute the letter "C" in lieu thereof.

The amendment was read and was adopted by a viva voce vote.

HB 762 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 762 ON THIRD READING

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 762** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 4.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Ellis, Fraser, Gallegos, Galloway, Haywood, Lindsay, Lucio, Luna, Madla, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Zaffirini.

Nays: Moncrief, Nelson, Truan, Whitmire.

Absent: Harris.

Absent-excused: Duncan.

HB 762 was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Moncrief, Nelson, Shapiro, Truan, and Whitmire asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 2445 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2445, Relating to the operation of a fixed rail transit system by certain metropolitan rapid transit authorities.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2445 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2445** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

HB 2445 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 883 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 883, Relating to the composition of the board of directors of certain metropolitan transit authorities.

The bill was read second time.

(Senator Brown in Chair)

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 883** by striking Sections 3, 4, 5, and 6 of the bill and substituting the following:

SECTION 3. Subchapter K, Chapter 451, Transportation Code, is amended by adding Section 451.5021 to read as follows:

Sec. 451.5021. BOARD COMPOSITION; CERTAIN AUTHORITIES.

(a) This section applies only to the board of an authority in which each member of the governing body of the principal municipality is elected at large.

(b) The board is composed of seven members who are appointed as follows:

(1) two members representing the general public appointed by the metropolitan planning organization designated by the governor that serves the area of the authority;

(2) two members appointed by the governing body of the principal municipality;

(3) one member appointed by the commissioners court of the principal county;

(4) one member appointed by a panel composed of the mayors of all the municipalities in the authority located in the principal county of the authority excluding the mayor of the principal municipality; and

(5) one member appointed by a panel composed of:

(A) the mayors of all municipalities in the authority located outside the principal county of the authority, excluding the mayor of the principal municipality;

(B) the county judges of the counties having unincorporated area in the authority, excluding the county judge of the principal county; and

(C) the presiding officer of each municipal utility district any portion of which is located outside the principal county.

(c) Only a member of a metropolitan planning organization who is an elected officer of a political subdivision in which a tax of the authority is collected is entitled to vote on an appointment under Subsection (b)(1).

(d) A person appointed under Subsection (b)(2), (3), (4), or (5):

(1) must be a member of the governing body:

(A) of the political subdivision that is entitled to make the appointment; or

(B) over which a member of the panel entitled to make an appointment presides;

(2) vacates the office of board member if the person ceases to be a member of the governing body described by Subdivision (1);

(3) serves on the board as an additional duty of the office held on the governing body described by Subdivision (1); and

(4) is not entitled to compensation for serving as a member of the board.

(e) A panel appointing a member under this section operates in the manner prescribed by Section 451.503.

(f) In this section, "principal county" has the meaning assigned by Section 451.501(f).

SECTION 4. (a) This section applies only to an authority governed by a board to which Section 451.5021, Transportation Code, as added by this Act, applies.

(b) Effective immediately, the terms of all members serving on the board on the effective date of this Act expire. The authority is managed by a temporary board consisting of five members appointed by the executive committee of the metropolitan planning organization designated by the governor that serves the area of the authority. The temporary board has all the powers of a board under Chapter 451, Transportation Code. Only a member of the executive committee who is elected from a political subdivision in which a tax of the authority is collected is entitled to vote on an appointment

under this section. The terms of all members serving on the temporary board expire when a majority of the members of the board appointed under Section 451.5021, Transportation Code, as added by this Act, take office.

(c) The governmental entities entitled to make appointments under Section 451.5021, Transportation Code, as added by this Act, shall make the initial appointments as soon as practical after the effective date of Section 3 of this Act.

SECTION 5. This Act takes effect August 15, 1997, except that this section and Section 4 of this Act take effect immediately.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read.

Senator Lindsay offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **HB 883** as follows:

1.) On page 3, line 13, insert the following new Section 4 and renumber the remaining sections accordingly.

SECTION 4. Chapter 451, Subchapter M, Transportation Code, is amended to read as follows:

**SUBCHAPTER M. WITHDRAWAL OF
TERRITORY FROM AUTHORITY**

Section 451.601. Unit of Election Defined

In this subchapter, "unit of election" means:

- (1) a municipality, including a principal municipality; or
- (2) an unincorporated area designated by a commissioners court under Section 451.657 as a discrete unit for the purposes of a confirmation election.

Section 451.602. Authorities Covered by Subchapter

Except as provided by Section 451.617, this subchapter applies only to an authority in which the principal municipality has a population of less than 750,000 and that was confirmed before July 1, 1985 or an authority in which the principal municipality has a population of 1.5 million or more.

Section 451.603. Withdrawal of Unit of Election

(a) The governing body of a unit of election may order an election to withdraw the unit of election from an authority.

(b) On the determination by a governing body of a unit of election that a petition for withdrawal under this subchapter is valid, the governing body shall order an election to withdraw the unit of election from the authority.

(c) An election to withdraw may not be ordered, and a petition for an election to withdraw may not be accepted for filing, on or before the fifth anniversary after the date of a previous election in the unit to withdraw from the authority.

(d) An attempt by a unit of election to withdraw from an authority in a manner other than as provided by the subchapter is void.

(e) A board member who resides in a unit of election that has withdrawn from an authority in accordance with the provisions of this section vacates his appointment to the board on the day after the day the election returns are canvassed.

The amendment was read.

POINT OF ORDER

Senator Barrientos raised a point of order that Floor Amendment No. 2 was not germane to the bill.

POINT OF ORDER RULING

The Presiding Officer, Senator Brown in Chair, ruled the point of order was well-taken and sustained.

Question recurring on the adoption of Floor Amendment No. 1, the amendment was adopted by a viva voce vote.

HB 883 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 883 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 883** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Duncan.

HB 883 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1153 REREFERRED

On motion of Senator Lucio and by unanimous consent, **HB 1153** was withdrawn from the Committee on Health and Human Services and was rereferred to the Committee on Jurisprudence.

HOUSE BILL 1914 REREFERRED

On motion of Senator Lucio and by unanimous consent, **HB 1914** was withdrawn from the Committee on Health and Human Services and was rereferred to the Committee on Jurisprudence.

HOUSE BILL 966 ON SECOND READING

Senator Barrientos was recognized and again moved to postpone further consideration of **HB 966**.

HB 966, Relating to water safety; providing penalties.

The motion prevailed.

Question—Shall Floor Amendment No. 1 to **HB 966** be adopted?

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Ratliff and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Finance might consider the following bills and resolutions today:

HCR 118, HB 2383, HCR 26, HB 2198, HB 137

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Health and Human Services might consider the following bill and resolution today: **HB 3428, HCR 151**

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Harris and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Administration might consider the following resolutions today:

SCR 93, SCR 94, HCR 82, HCR 245, HCR 144, HCR 230, HCR 232, HCR 235, HCR 236, HCR 240, HCR 241, HCR 242, HCR 256, HCR 265

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Truan and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on International Relations, Trade, and Technology might consider **HCR 137** today.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Intergovernmental Relations might consider the following bills today:

HB 998, HB 1749, HB 2096, HB 2213, HB 2731, HB 2736, HB 2750

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Bivins and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Education might consider the following bills and resolution today:

HB 1800, HB 3249, SCR 95, HB 3125, HB 2517, HB 583, HB 2801

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Jurisprudence might consider the following bills tomorrow:

HB 3052, SB 1958, HB 1914, HB 1153, HB 3544, HB 1646, HB 1886, HB 1645

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on State Affairs might consider the following bills and resolution today:

HB 1572, HB 298, HB 882, HB 399, HB 2067, HB 159, HB 1001, HB 1048, HJR 104, HB 3576, HB 3512, HB 2328, HB 2380, HB 951, HB 3157, HB 297, HB 2887

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Criminal Justice might consider the following bills today:

HB 273, HB 1070, HB 2257, HB 3278

GUESTS PRESENTED

Senator Cain was recognized and introduced to the Senate a delegation of citizens from Wolfe City.

The Senate welcomed its guests.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Barrientos and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee of the Whole Senate on Legislative and Congressional Redistricting might consider **HB 2254** today.

COMMITTEE OF THE WHOLE SENATE

On motion of Senator Barrientos and by unanimous consent, the Senate at 11:21 a.m. resolved into the Committee of the Whole Senate on Legislative and Congressional Redistricting with Senator Barrientos presiding.

IN LEGISLATIVE SESSION

Senator Brown called the Senate to order at 11:30 a.m. as In Legislative Session.

COMMITTEE OF THE WHOLE SENATE REPORT

Senator Barrientos was recognized and reported that the Committee of the Whole Senate on Legislative and Congressional Redistricting had met and had conducted its business.

MOTION TO ADJOURN

On motion of Senator Truan and by unanimous consent, the Senate at 11:31 a.m. agreed to adjourn, subject to the receipt of committee reports, until 3:00 p.m. tomorrow.

MEMORIAL RESOLUTIONS

SR 770 - by Ratliff: In memory of John W. Mason of Mount Pleasant.

HCR 165 - (Fraser): In memory of Dr. Marion Rice Zetzman.

CONGRATULATORY RESOLUTIONS

SR 763 - by Cain: Congratulating LaHoma Caldwell Clanton and Harris Clanton of Quitman.

SR 764 - by Cain: Congratulating Joan Reid Stidham and Marlin Stidham of Kaufman.

SR 765 - by Cain: Commending Jo Sulak Wesley, First Lady of Ennis 1997.

SR 766 - by Zaffirini: Congratulating Minerva R. Garcia of Laredo.

SR 767 - by Patterson: Commending Tom Fitzmorris of Kemah.

SR 768 - by Shapleigh: Commending the El Paso participants in the Presidents' Summit for America's Future.

HCR 227 - (Ogden): Honoring Calvin A. Rinn on the occasion of his retirement.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 4:35 p.m. adjourned until 3:00 p.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

May 17, 1997

NATURAL RESOURCES — **HB 1823**, **HB 2807**, **HB 2848** (Amended), **HB 3590** (Amended), **SB 1942** (Amended)

INTERGOVERNMENTAL RELATIONS — **CSHB 3540**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **CSHB 3465**

JURISPRUDENCE — HB 891, HB 293, HB 1192, HB 1317, HB 1665, HB 1672, HB 1751, HB 2421, HB 2488, HB 3104, HB 3105, HB 3345, HB 793, HB 2215 (Amended), HB 2339 (Amended), CSHB 3088, HB 3545 (Amended), HB 3581

ECONOMIC DEVELOPMENT — HB 564, HB 864, HB 349, HB 1287, HB 1668, HB 2062, HB 2063, HB 2129, HB 2180, HB 2671, HB 2795, HB 2873, HB 3087, HB 3158, HB 3269, HB 3391, HB 1865, HB 2221

NATURAL RESOURCES — HB 3602 (Amended), HB 3574, HB 3592, HB 3607, HB 1960

FINANCE — HB 3203 (Amended), HB 2799 (Amended), CSHB 2778, HB 2252 (Amended), CSHB 767, HB 65 (Amended)

STATE AFFAIRS — HB 3207 (Amended)

CRIMINAL JUSTICE — HB 2257

INTERGOVERNMENTAL RELATIONS — HB 2213, HB 2750, HB 998, HB 2096, HB 2731

INTERNATIONAL RELATIONS, TRADE, AND TECHNOLOGY — HCR 202, HCR 137, HB 1391

STATE AFFAIRS — HB 3337

HEALTH AND HUMAN SERVICES — HB 1516 (Amended), CSHB 2017, HB 607 (Amended), HB 2482 (Amended), CSHB 2777, HB 2846 (Amended), HB 2866 (Amended), CSHB 1716, HB 1734 (Amended), HB 2525 (Amended), CSHB 196, HB 1637 (Amended), CSHB 2088, CSHB 727, HB 3116 (Amended), HCR 44 (Amended), HB 1439 (Amended), CSHB 587

